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GAEKWADS AND THE BRITISH  
A Study Of Their Problems  
( 1875—1920 )

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# GAEKWADS AND THE BRITISH

A STUDY OF THEIR PROBLEMS

( 1875—1920 )

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V. K. CHAVDA

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**A STUDY OF THEIR PROBLEMS**  
( 1875—1920 )

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## Preface

It was in 1955 that the idea of working on the history of Baroda struck at the instance of the late Prof. G. B. Pandya, then Professor and Head, Department of History, M. S. University of Baroda. I had then recently joined the teaching staff of the Department of History. As the old native state of Baroda had a well maintained office of the state archives, the work was worthwhile doing. Over and above its own record, the office of the archives preserves a good amount of the old Baroda Residency record too. This work is almost entirely based on the record available in this office.

The period of this work viz. 1875 to 1920 was chosen with a motive. The year 1875 was the one when Sayajirao III was chosen to be the ruler of the state by the then Agent to the Governor-General in Baroda Sir Richard Meade. The record of the period beyond 1920 was not made available by Bombay state under their rules. However, by 1920, a glimpse could be had of the role Baroda played in the work of the Chamber of Princes.

Nothing has been said of popular movement demanding share in the government of the state and other revolutionary movements as material on that subject had been put aside for writing a History of the Freedom Movement by the State, and thus not available for other research scholars.

The original thesis, bulky as it was, had to be pruned for publication and while doing so, naturally, some portions were rewritten. However the pith and marrow of the original work has not been allowed to suffer in the slightest degree.

Its introduction was to be written by the late Prof. B. A. Saletore, who was one of the examiners of this thesis. But before he could send me the promised write-up, he suffered from a stroke which proved fatal. Thus, in the absence of Professors G. B. Pandya and B. A. Saletore this work goes in print without Introduction. In their cherished memory, I dedicate this work to them.

Throughout the work of this thesis, members and staff of Baroda Archives extended their fullest co-operation and ungrudging help. I am indeed very grateful to them. I am thankful to Dr. P. M. Joshi, the Director of the Office of the State Archives and Historical Monuments, Government of Maharashtra under whom the Baroda Archives functioned when I carried out my research at Baroda. I am also thankful to other members of that office.

I have also to express my thanks to Dr. C. S. Patel Vice-chancellor of M. S. University of Baroda for permitting the thesis to be published.

To my wife I owe a deep sense of gratitude for all that she has done to encourage me to complete this work.

Despite difficulties Shri O.P. Ghai of University Publishers has done a good job. I am obliged to him as well as other workers of his press.

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M. S. University of Baroda,  
Baroda.*

*—V. K. Chavda*

# Contents

## *PREFACE*

*vi*

I. A SHORT HISTORICAL ACCOUNT OF THE GAEKWADS	1
Origin of the State ; Founder of Dynasty ; Damajirao II ; Panipat and After ; Sayajirao to Govindrao ; Anandrao ; Sayajirao II and Ganpatrao ; Khanderao ; Malharrao.	
II. PARAMOUNTCY IS PARAMOUNT	8
III. BRITISH INTERVENTION : ITS ORIGIN, NA- TURE AND SCOPE	19
IV. PROBLEMS RELATING TO THE STATE	30
(A) Jurisdiction or authority in matters of Internal Administration—Railways ; The Baroda Contonment : Europeans and other Foreigners ; Guarantee to Certain subjects of the State ; Tributary Girassias in the State ; Local Cess ; Levy of Income-tax ; Wantas ; Mulgirasia of Amreli Mahals in Kathiawar ; Postal and Telegraph Establishments ; Tele- graphs.	
(B) Jurisdiction or Authority in Matters of Interstatal Relations—Baroda's case of "So- vereignty" over its Tributaries ; Problems Arising out of Tribute ; Remission of Tri- bute ; Line of Arguments by Baroda Government ; Boundary and other Jurisdic- tional disputes with other Powers ; Panch Kalami Rules ; Boundary Communication ; Right of Appeal ; Boundary and other Juris- dictional disputes with British Government— Dang Boundary Case ; Wadi Salher ; Boun- dary dispute between two Riparian Villages ;	

Village of Surval ; Chanded Jurisdiction ;  
Boundary and other jurisdictional disputes  
with other States ; Junagadh Zortalbi Prak-  
aran ; Prachi and Prabhas Pattan : The Gheer  
Boundary Case : Extradition : Tabular State-  
ment.

V. MILITARY MATTERS	114
The Subsidiary Troops ; The Baroda Contingent : State Military and Police forces ; Baroda Irregular Forces.	
VI. FINANCIAL AND ECONOMIC RELATIONSHIP	131
Port and Salt rights ; Kathiawar ; Admiralty Jurisdiction ; Opium ; Baroda Currency.	
VII. PROBLEMS RELATING TO THE RULER OF THE STATE	147
Deposition of Malharrao ; Adoption of Sayajirao ; Minority Administration ; Sayajirao's Investiture ; Sir James Ferguson's Advice ; Sayajirao and the Chamber of Princes ; Problems of Dignity and Position of the Rulers and the Members of his family ; The question of acquisition of immovable property in British India by Ruling Princes and Chiefs ; Modification in the Rule.	
VIII. CONCLUSIONS	169
BIBLIOGRAPHY	178
INDEX	187



## CHAPTER I

### A SHORT HISTORICAL ACCOUNT OF THE GAEKWADS

The Baroda State that we saw on the eve of its merger with the present Bombay State was largely a result of untiring perseverance of its Ruler Sir Sayajirao III and his able Ministers the first of whom was Raja Sir T. Madhav Rao. This early combination of an enlightened ruler matured in the modern way of life and modern political thought and his Dewan being an acknowledged man of eminence and wisdom trained in administration by British administrators and with mature understanding, familiar with an Indian Native Court was a boon to Baroda State. It is only from 1875 that its modern period begins. But to be better able to understand the history of Baroda from 1875 to 1920 it is desirable to trace its origin, know its previous rulers and administration and then only the reader will be able to appreciate what a mighty effort was required by those leaders of the State to give it a 'New Look' to a mess that was created.

#### Origin of the State

Historically the origin of the State is to be found in the period of the break up of the Mughal Empire and the rise to power of the great Maratha rule under the great hero Shivaji and his descendants the kings of Satara. Of the early leaders of the rule, one of the most distinguished was Khanderao Dabhade. In 1705, he over ran Gujarat (then a Mughal Dominion) and imposed a tribute upon the inhabitants. In 1716, he was appointed Senapati or Commander-in-Chief by the then king of Satara. At the same time, his right hand man, another leader named Damajirao Gaekwad, acquitted himself so valiantly in the battles which the Senapati fought for the Maratha Empire that he was exalted to the rank of Second-in-Command and honoured with the title of Shamsher Bahadur which distinction remained a proud title of the Head of the Gaekwad House till recently.

#### Founder of Dynasty

Both Khanderao Dabhade and Damajirao Gaekwad died in 1721. The former was succeeded by his son Trimbakrao and the latter by his nephew Pilajirao who was the founder of the dynasty

of Gaekwads of Baroda. Pilajirao who managed the affairs of the Gujarat on behalf of the Senapati acquired some territory in the province and built the fort of Sonagadh and made it the head quarters of his power. It remained the capital of Baroda dominions till 1761. Trimbakrao was killed ten years later in an encounter with the Peshwa (the Chief Minister of the king of Satara) and his minor son Yeshwantrao succeeded him, with Pilajirao as his Mutalik or Deputy bearing the title of "Sena Khas Khel". Pilajirao was assassinated in 1732 by the emissaries of the Mughal viceroy and was succeeded by his son Damajirao II.

### Damajirao II

Damajirao captured Baroda in 1734 and since then it had been in the hands of the Gaekwads. When Yeshwantrao Dabhade came of age, he proved to be incapable of wielding the Maratha power in Gujarat and in 1747, the king of Satara appointed Damajirao as his representative in Gujarat. Before long Damajirao established his supremacy in Gujarat, defeating the Mughal viceroy and reducing him to a non-entity. Then arose internal strife, among the Marathas, beginning with the death of Shahu the fourth king of Satara in 1749. The authority of the king of Satara had passed into the hands of the Peshwa, who governed the land in his stead in the name of the king. This policy was not approved of by Damajirao and consequently when two years later, there arose an opportunity to challenge the Peshwa, he prepared an expedition to Deccan with the object of restoring the then king of Satara, after rescuing him from the Peshwa's thralldom. With an army of 15,000 Horse and Foot he met and defeated a large force of Peshwa at Nimb which attempted to impede his progress. Later, however, the fortunes of war changed and he was treacherously seized by the Peshwa and made the prisoner. The Peshwa offered to release him on his agreeing to cede half of Gujarat and of all his future conquests. He accepted those terms and entering into an alliance with the Peshwa he maintained his Sovereignty in tact and two years later in the joint assault together with the Peshwa's forces, he laid seige to Ahmedabad and captured it.<sup>1</sup>

1. In A. D. 1753 according to Mirat-e-Ahmadi. However Grant Duff puts the date some where in A.D, 1755. A History of the Mahrattas, Vol, II London 1912). p. 78 See footnote.

This was the end of the Mughal power in Gujarat and that area was thereupon apportioned between the Peshwa and the Gaekwad.

### **Panipat and After**

The next important land mark in the history of these days was the great battle of Panipat, when the Afghans defeated the Marathas. Damajirao fought on the side of the Peshwa and he and his forces distinguished themselves in the conflict. After the close of the historic battle they were able to withdraw and return to Gujarat, when Damajirao consolidated his power and prevented the Mughals from getting any advantage from the battle of Panipat. In fact, he extended this territory by conquering the area which formed the Mehsana District of the State.

### **Sayajirao to Govindrao**

The death of Damajirao in 1768 was followed by a period of disorder in which two of his sons, Sayajirao the eldest and Govindrao born of the eldest wife disputed the succession. Ultimately the former was declared the heir by the Peshwa and ruled from 1771 to 1778. Owing to his infirmities, his younger brother Fatehsinhrao acted as Regent, during his reign. While Sayajirao still lived, Fatehsinhrao assumed powers of State in 1778 and ruled till 1779. On his death the fourth brother Manajirao seized the reins of power on behalf of Sayajirao and it was not until he died in 1793 that Govindrao became ruler but only after he had paid a heavy nazar to the Peshwa in order to secure the title of Senakhaskhel Shamsher Bahadur.

### **Anandrao.**

Govindrao died in 1800 and was succeeded by his eldest son Anandrao. The early part of his reign was a period of trouble and unrest due to the bid for power by his brother Kanojirao who was aided by Malharrao of Kadi another scion of the family and a vassal of the State. In this reign for the first time the aid from the foreigner i.e. British was sought for and this foreign power involved itself in Baroda State history. This was an important change of policy in a State as later on the East India Company tactfully went on influencing the history of the State. Both parties sought the aid of the East India Company, which decided to help Anandrao, the rightful ruler. The Gaekwad at this time could not see that the invitation to a foreign power constituted the greatest danger to the State in times to come but was anxious to maintain his position by any

means. A treaty was signed between the Gaekwad and the East India Company in March 1802 and two other treaties in June and July 1802 respectively. These were consolidated in 1805 in a definitive treaty which was supplemented by the Treaty of 1817. By these engagements the East India Company bound themselves to support the Maharaja Gaekwad, an offensive and defensive alliance was entered into, and the State agreed to receive from the Company a subsidiary force of 4000 native infantry, 1000 native cavalry, a company of European Artillery and two companies of Gun-Lascars. For the payment of these troops, the State ceded territory which at that time produced a surplus revenue of Rs. 24,31,909,<sup>1</sup> and gave over the direction of its foreign policy to the charge of the Company Government. By treaties made with Peshwa at this time the independence of Baroda was recognised. Because of these far reaching changes Anandrao's reign is very important in the annals of Baroda history.

#### Sayajirao II and Ganpatrao

In 1819, a year after Peshwa's power was finally overthrown by the Company (and Baroda consequently released from its annual payments on account of past claims) Anandrao died and was succeeded by his brother Sayajirao II. On his succession the Company Government withdrew from the minute interference in the internal affairs of the State which they were exercising while Anandrao lived. At this time the arrangement was made by which the control of the States paying tributes to Baroda was retained by the Company Government.<sup>2</sup> This was another important mile stone in the history of Baroda, which was slowly and slowly losing its sovereign rights. The reign of Sayajirao was marked by differences between the Baroda and the Company Government which continued for nearly 20 years, until they were finally composed by Sir James Rivett Carnac, Governor of Bombay in 1841. Sayajirao, however was able to see the intention of the Company gaining complete control over the State though not deposing

1. A. T. Vol. VII Baroda and Punjab 4th Edition. p. 9.  
p. 67 for A.D. 1805  
Pp. 69-71 „ „ 1808  
p. 77 „ „ 1817

2. W. R. Wallace, The Guicowar and his Relations with the British Government [hereafter *Wallace*] p. 28 .



Ruler but making him to do as they wanted him in their policy of bringing the whole of India under their suzerain authority. But he was unable to check gradual passing of sovereignty from his hands as it was beyond his capacity to rise against the Company, militarily. His predecessor and brother had bound his hands and feet and made him capable of nothing except to acquiesce in what either willingly or against will, the East India Company did.

After the death of Sayajirao in 1847, his eldest son Ganpatrao came to the throne. In his reign some social reforms were carried on as he also followed a policy of construction of roads, bridges and other public buildings, but the period was without any political change. Ganpatrao died in 1856 and was succeeded by his eldest surviving brother Khanderao.

#### Khanderao

A few months after Khanderao's succession, there broke out the Sepoy Mutiny which threatened to overthrow the Company's Dominion in India. Its repercussions were felt in Gujarat where there was a rebellious outbreak but the Maharaja steadfastly supported the Company Government. But for this support in these critical times, the hold of the Company over Gujarat would have been paralysed, and the Mutiny would have spread to the Deccan. For his services the British Government presented him with the splendid pair of fans made of peacock feathers<sup>1</sup> (Mor chhals) and remitted the annual payment of Rs. 3,00,000<sup>2</sup> which had hitherto been made by the State for the upkeep of the Gujarat irregular Horse. In 1862<sup>3</sup> an adoption Sanad was given to him. Khanderao was a liberal ruler. He reformed the administration, inaugurated a revenue survey of the land and planned many public works which, however, he did not live to complete. He died in 1870.

#### Malharrao

On the death of Maharaja Khanderao without male issue, the next to ascend the Gadi was Malharrao, his younger brother. It however, soon became apparent that Malharrao was not fitted for the task of the ruler. He began attempting to wreak vengeance on the

1. Huzur Political Office Selection No. 26. p. 133

2. *Ibid.* p. 129-130

3. *Ibid.* p. 136.

supporters of the previous Maharaja and went on to oppress his subjects financially and otherwise. In 1873, the Government of India appointed a commission to inquire into complaints of misgovernment against him and on its advice called upon him to reform the administration in certain particulars. In 1874, he was tried by another commission appointed by the Government of India for attempting to poison Col. Phayre, British Resident at Baroda. The Commission gave a divided opinion: The three British members holding him guilty and the three Indian members holding him not guilty. The British Government declined to act on this verdict, but finally decided by a proclamation of 1875<sup>1</sup> to depose him on the grounds of general misrule and evident incapacity to carry out reforms, the necessity of which had been established by the previous inquiry.<sup>2</sup> They then deported him at once to Madras where he resided under the surveillance of a British officer until his death in 1882.

After him came Sayajirao the III on the Gadi. How he came to the throne, who was he and how was he connected with the ruling House of the Gaekwad is a different story which will be narrated elsewhere. However, it will suffice to say here that he was adopted by Maharani Jamnabai the widow of Khanderao Gaekwad and belonged to one of the branches of the Gaekwad who had been settled in Khandesh in the village of Kavhana. His original name was Gopalrao. He was the son of Kashirao, a descendant of Partaprao. Partaprao was the third son of Pilajirao Gaekwad, the founder of the State.

Such is the romantic history of Baroda since its inception, wherein the usual features of a fairy tale are to be found in abundance. Here the kings when unable to wield power when given to luxury or owing to infirmities gave their powerful regents or

1. H.P.O. Selection No. 26 p. 141.
2. The Commission comprised of Government of India nominees.
  - (1) Colonel Meade, the President,
  - (2) Mumtaz-ud-daula Nawab Faiyaz Ali.  
Government of Bombay Nominees.
  - (3) Mr. Ravens Croft.
  - (4) Colonel Etheridge

The Commission held its first sitting in Baroda on the 10th November and its last at the same place on the 24th December 1873.

F.A.H. Elliot, *Rulers of Baroda* [hereafter *Elliot*] Baroda 1934 p. 250

successors an opportunity to fight for the Gadi. Here the internal strife between the powerful leaders of a clan resulted in cruel conflicts. Disputes on the death of the father between sons for the Gadi was a normal feature and bribing or entering into alliance was the result. Cliques worked and gained. The fight between the legitimate and the illegitimate issue of the ruler was also seen. But it was good till the aid sought was of a native state or prince. But a different element and of importance entered to play the decisive role when an aid of a foreign power was sought and given. Later on when Britishers gained ground all over India and the Native States in friendly alliance with them, by treaties and engagements initially on the basis of equality, were rendered to subordinate alliance, they asserted their Paramountcy in different ways. In the history of Baroda that romantic element of deposition of a king and placing on the throne a boy from village who never dreamt that he would be a king overnight was also a distant not lacking. However the act of deposition was act based on the idea of Paramountcy of the British Government in the whole of Indian peninsula. What was this Paramountcy, what were the functions based on this theory, how did it manifest in the day to day affair was a story of all the Native States of India and later on we would have a chance to go through it, as far as Baroda was concerned with this.

## CHAPTER 2

### PARAMOUNTCY IS PARAMOUNT

With the rise of liberal forces in Britain as well as in India in the beginning of the Twentieth century and the growing political consciousness in Indian Empire of His Majesty's Government the British Government were forced to look more to the problems of India for their solution. The demand of increasing participation of the Indian people in the day to day Government of their country and gradual establishment of representative institutions under Dominion Status became more consistent. Even the responsible British opinion in England as well as in India believed that no future Indian Policy could be complete without the partnership in the Imperial business of two distinct Indias, as existed then. A very picturesque description was given by the Report of the Butler Committee of these two Indias, when it said, "Geographically India is one and indivisible, made up of the pink and the yellow. The problem of the statesmanship is to hold the two together."<sup>1</sup>

The story of the British rule in India is the story of this great effort of statesmanship. Thus the attempt to hold two Indias together had continued to be made since the attaining of the supreme position on this vast sub-continent by the British power. At the same time writers have given their attention to fit in some theory this relationship of the British Government on the one side and the Indian Native State Governments on the other; with their eye particularly on the nature of political relationship that had come to be evolved. But all these theories have not been able to explain all the facets of this relationship completely whether it was federal or feudal in its nature or governed on International law or had a structure of a confederacy in its constitution. Sir William Lee Warner, the writer of some consequence in this period, tackled the question of the constitutional position of the Native States in relationship with the British Government and claimed unlimited

1. Report of the Indian States Committee, 1928-29 (East India) Indian States [hereafter *Butler Committee Report*] p.10,



rights of authority for the British Government which he said was the Paramount Power.<sup>1</sup> Another theory was that the rights and privileges of States were derived directly or indirectly from the Paramount Power. This position was taken up by Lord Curzon. But it also crumbled down. Now the question was where did Baroda fit in the constitutional position as against theory in the background of the history of the association of the British power with India since 1800 A.D.

From the Governors of mercantile factories to Governors of territories teeming with civilized and industrious populations and masters of a rich sub-continent of Asia—this may sum up the rise and growth of the British power in India.

From independent powers enjoying equality of status among themselves and superiority of position with regard to the British Factory Governors to the position of allies of equal status, by treaties and engagements and conventions with British East India Company, from the position of allies with international status to that of States in subordinate alliance, with no international relations, that is to say, from political and international equality to subordination and dependence—this in a way might sum up the history of the Native States in reference to their then existing political condition before their effacement altogether from the map of India.

In making the above general statement we may not forget that the history of most of the Native States was not similar but that it varied. Each State was brought into relation with the British Government separately not under circumstances not exactly alike nor all at one and the same time, but gradually, as circumstances developed.<sup>2</sup>

The relations of the Baroda Government with the East India Company date from 1802, when Ravji Appaji, the Minister of Anandrao Gaekwad, invoked the assistance of the British troops against the insurrection of Malharrao of Kadi and for the reduction of Arab forces which had become powerful and insubordinate in the State. The East India Company was then only one of the Powers

1. Sir William Lee-Warner *The Native States of India* [hereafter *Lee Warner*] pp. 344, see also the preface.

2. *Bulter Committee Report* p. 12.

in India and it was striving to maintain itself and to extend its sphere of influence like others. Article 5 of the Articles of Agreement dated 6th June 1802 provided :

“There shall be a true friendship and good understanding between the Hon’ble English East India Company and the State of Anandrao Gaekwar in pursuance of which the Company will grant the said Chief its countenance and protection in all his public concerns according to justice and as may appear to be for the good of the country, respecting which he is also to listen to advice.”<sup>1</sup>

As regards the concluding part of the above sentence it may be noted that the Marathi counterpart of the *original* treaty which is extant in the archives of the State, and to which the signatures of the contracting parties were affixed does not contain any reference to the Company’s Government granting its protection and advice to the Gaekwad Government.

The words in Marathi are :

गायकवाड सेनाखासखेल शमशेर बहादुर व कंपनी इंग्रज बहादुर यांची परस्परे दोस्ती पुस्तदरपुस्त चालावी. वाजवीचे रुईने मदत करीत जावी. ज्यांत सेनाखासखेल यांचे बरे तेच करतील.<sup>2</sup>

These words may be translated as follows :—

“There should be continuous *mutual* friendship between the Gaekwar Sena Khaskhel Shamsher Bahadur and the Company Ingrej Bahadoor and assistance should be rendered (by the Company’s Government) according as may appear proper. They will do what may be good for the Senakhaskhel.”

This used to be a major point in protests frequently lodged by Baroda Government.

Articles 2, 6 and 10 speak of Baroda in a State of friendly alliance and this position of the State was maintained and reiterated in the supplement to the Definitive Treaty in 1817.<sup>3</sup>

1. H.P.O. Selection 26 p. 11.

2. H.P.O. Selection No. 26 तहनामे करार बगैरह. y. 11, see also pp. 40, 41, 42, 49.

3. *Ibid.* p. 73.

Since the above treaties were entered into, the Baroda State had remained a faithful ally of the East India Company and afterwards of the British Government and never showed a hostile or unfriendly attitude towards the said Company or the British Crown. During the troubled times of the Mutiny in 1857-58 Maharaja Khanderao rendered good help. For this, Lord Canning thanked him.<sup>1</sup> Ever since the above treaties were entered into, the British Government, from being only one of the several powers in India, gradually acquired a dominating supermacy over the others and the natural tendency was to regard all the States in India as being in subordinate union, irrespective of the period and the express provisions of their individual treaty relations. This change of attitude in the relations and the policy towards the States came about in spite of the gracious proclamation of Queen Victoria in 1858,<sup>2</sup> and subsequent proclamations in 1877<sup>3</sup>, in 1903 and 1911. With the passage of time new departments sprang up in Government of India. Native States often were obstacles in fulfilment of many of their schemes.<sup>4</sup>

The method of working of these new departments is worth noting. The department formulated a policy with particular advantage to British India under the guise of Imperial policy with scant regard to the treaties with the States, and put it into effect. With a scheme already in working condition the Native State protested regarding its working to the detriment of interests of States and pointed out some stipulation of the antiquated treaty or engagement, by which the British Government could not unilaterally decide without the prior consultation with the States. The treaty under question then came for interpretation. The legal opinion considered first the letter and spirit of the treaty but at the same time took into account its actual working with modifying usages and customs, read it whole and thus gave a different version, of course, mostly favourable to the British Government and thus added to the accretion of such usages. In short, the policy was not formulated taking into consideration the already existing treaties, but was fitted later on, in it and thus modifying a great deal its nature. Currency

1. H.P.O. File No. 341/61.

2. H.P.O. File No. 341/9.

3. *Ibid.*

4. Lovat Fraser, *India under Curzon and after* (London, 1911). p. 216.

questions, problems regarding railway jurisdiction were some of the examples to that effect. What proportion the so called 'advice' of the resident assumed has been depicted by Wallace. Writing particularly about the Baroda State, he remarked:

"The habit of giving advice had induced a tone more lordly and an impatience more impatient, and an assumption more aggressive than in the days of Governor Duncan and Col. Walker."<sup>1</sup>

In 1917, when Montague, the Secretary of State for India enunciated a new goal of progressive realisation of responsible self-government for India, it was claimed on behalf of the Baroda State that if that was the goal for British India, consistency policy would justify an equally honourable goal for the States.<sup>2</sup> This aspect of the question found due notice in the Joint Report of Montague and Lord Chelmsford on Indian Constitutional Reforms. In the fullest and freest manner they assured the Princes that no constitutional change which may take place will impair the rights, dignities and privileges secured to them by treaties, sanads and engagements or by established practice. However, by 1917 much had happened and the last thirty seven years had seen 'established practice' giving new meanings to treaties and sanads. The Baroda Government's Reply to the questionnaire sent by the Indian States Committee narrates eloquently and in a detailed manner 'violations' of their treaty rights by the British Government since the Definitive Treaty was signed in 1805. Various subjects where such violations took place included (1) Subsidiary troops, and the Contingent force, (2) Internal sovereignty and (3) Other distinctive rights. At the end it was observed very strongly that no obligations should be imposed, as arising from usage and sufferance and other causes unless :

- (a) Such obligations were consonant with the spirits of the treaties and engagements, and
- (b) The usage had been adopted with the full and explicit consent of the State.<sup>3</sup>

It was also further stated that :

1. *Wallace* p. 211.

2. H.P.O. file No. 341/46.

3. *Ibid.* The Indian States Committee. Reply of the Baroda Government to the questionnaire [hereafter *Reply*] Baroda, 1928. Pp. 1-5.

"Important rights of the State had in the past been decided on political usage not strictly in accordance with the inherent rights of the State" and the following examples were given.<sup>1</sup>

- (1) Construction of Railways.
- (2) Posts.
- (3) Telegraphs.
- (4) Cantonment Jurisdiction.
- (5) Jurisdiction over Foreigners.
- (6) Jurisdiction over Railways.
- (7) Extradition.

The *Reply* of the Baroda Government then went on to cite various arrangements introduced during the Minority Administration in contravention of the British Government's Proclamation dated 19th April 1875.

During the minority of Sayajirao III it was observed that the State's rights were reduced when :

- (1) The right of the State to regulate the strength of its military and police forces was restricted.
- (2) The right of the State to manufacture arms and ammunition required for its administrative needs or to obtain them from such sources as appeared suitable to the State authorities was curtailed.
- (3) The contingent of State cavalry maintained under Article 8 of the Treaty of 1817 was disbanded, and an annual payment of 3½ lakhs of rupees substituted in lieu thereof.
- (4) The right of the State to open ports and manufacture and excise salt in Gujarat portion of its territory was vetoed.
- (5) The right of the State to export salt produced in its territories to other ports in India was refused recognition.

"Another manner in which the rights of the State suffered was by the continuance after their *raison detre* had disappeared of arrangements initiated to meet circumstances of a special or temporary character."<sup>2</sup> Obviously, the reference here was to questions of the relations between Baroda and the tributary States. The arrangement made in 1820, it was claimed, was temporary in nature. It was based

1. *Ibid.*

2. *Ibid.*, p. 6.



on the disturbed state of the country at the time. But this had been continued after the specific circumstances under which it had its origin ceased to exist.

In these circumstances the Baroda Government submitted as a remedy to the ills over and above faithful adherence to the treaty engagements, irrespective of usages that went against them, the strengthening of department advising the viceroy on political matters and secondly reference to arbitration, in cases of disputes, to the extent of Judicial Committee of the Privy Council.<sup>1</sup>

It appears that the Baroda Government in all its protests always drew attention to the Definitive Treaty of 1805 and its supplement of 1817. Its meaning, scope and terms of reference should, therefore, be properly understood.

Now this treaty made a very curious reading nearly after more than hundred years of its signing. All that we could say was that since there appeared to have been no later treaties with Baroda State relation of the State *de facto* with the British Government which had declared itself to be the Paramount Power could not be said to rest after a century upon treaty at all. For these early treaties were plainly *inter pares*. It did not appear anywhere in them, so far it could be discovered, any suggestion that Baroda was being dealt with as a feudatory by an overlord. All the terms were agreed to, as between equals. There were faint indications as for instance, where Baroda bound itself not to make any way of aggression, that it was to some extent under the control of the East India Company, but such indications if they deserved the name, could not change, hardly modify, the character of these treaties as a whole. Nevertheless, it was certain that in the intervening years, and probably by reason of the Crown taking over the Government of India, from the Company in 1858, these treaties had fallen entirely into desuetude and, therefore, must be regarded, except of course, as regards territorial exchanges and distributions as virtually obsolete. What surprised one was that they did not seem to have been replaced and Baroda was therefore in the 20th century without any treaty right at all in many particulars. It was, however, clear that in the events that had happened, legally Baroda could not reasonably claim on this ground to be

1. *Ibid.*

an independent sovereign power in friendly alliance with the British Government and in no other respect subordinate to it. For example Baroda could not claim to be able to make independent treaties and alliances with European States or America or any other foreign power. At the same time it was quite certain that were Baroda unwise enough to put forward any such claim, it would not have been favourably entertained by the Paramount Power *i.e.*, the British Government. The plain truth was then that the position of Baroda was a little bit anomalous. At most every thing in the nature of constitutional law in India, one could dare say, was more or less anomalous, because there was no parallel to be found any where to the position of the British in India. Since the British Crown took over the Government of this vast sub-continent in 1858, one thing however was pretty certain that no State in India, however important could on the 'ground that its only treaties represented it as being in friendly alliance with the East India Company claimed so complete independence of the supreme power as to make war on the neighbouring State or any part of the British territory. This is merely to take extreme case to indicate the difficulty if not the impossibility of extracting anything like a logical constitutional relation between Baroda and the Paramount Power from these ancient treaties. One could positively say that there were terms in these treaties which Baroda, after a century would not care to have enforced. However that may be, we have to deal with the facts as they were. The general profession as expressed from time to time of the Government of India that it desired as far as possible, to maintain and abide by all treaties made with the protected Indian States, appeared to be quite sincere, but it had to be taken subject to actual conditions and *mutatis mutandis*. There could be no doubts that these old treaties would have at least given Baroda the strongest claim to be granted the largest and completest internal autonomy. But to a certain extent it had long enjoyed it. It grew more sensitive only upon the extent to which the Paramount Power claimed to supervise, control successions, investitures and such other subjects. But if the State meant to approach the discussion of any such questions upon the basis that by its treaties it was absolutely independent of the British Crown, it was making mistake and landing itself into an awkward position. Every chief of any note in India had over and over again professed his loyalty to, and rendered homage to the King Emperor or the Queen-Empress of Britain and gave as convincing

proofs, e.g., during the War of 1914, of the sincerity of such professions. Surely, that was utterly inconsistent with any claim to be in no way subordinate to or dependent upon, except as an ally and an equal, upon the British Crown. And that was why, wherever and whenever Baroda tried to talk from equal platform it had to make a retreat or lose a cause or a right.

However, it was this absence of any definite constitutional relationship between the British Government and the Governments of the Indian Native States, that helped Indian Government in 1947 when India achieved independence, to solve the States issue without much serious handicap and thus smoothened the effacement of the yellow colour from the Indian map.

The Definitive Treaty of 1805 and its supplement of 1817 had thus to be relegated in the background. This was the inevitable result of the well known phenomenon of the early Twentieth Century viz., growth of the concept of 'Paramountcy' of the British Government in India with regard to Indian Native States. It had a very vast sweep.

The function of the Paramount Power was said to cover <sup>1</sup>

- (1) Defence.
- (2) External affairs.
- (3) Disputes between States *inter se*.
- (4) Disputed successions.
- (5) Gross misrule.
- (6) Education of minor princes and minority administration.
- (7) Residuary jurisdiction over small states.
- (8) Jurisdiction over specified class of persons viz., European British subject, in respect of certain areas like contonments, railway lands etc., and in respect of specified offences.
- (9) In the internal administration of the Native States, in the manner and to the extent specially provided in the treaties and engagements with the Native State.

1. Butler Committee Report, Pp. 26-30.

Now defence and external affairs had been ceded by Baroda State to the British Government by treaty provisions and therefore had no ground to complain, except with certain matters regarding the subsidiary troop and the commutation of Rs. 30 lakhs with regard to the Contingent.

Under the interstatal disputes, one item could be considered as far as the Baroda Government was concerned, to come under this. It was about interstatal tributes and the sovereignty of the Gaekwad over States and estates in Kathiawad and Gujarat, tributary to Baroda, wherein the British Government had undertaken to recover tributes on behalf of the State. This question has been dealt within all its pros and cons elsewhere.<sup>1</sup>

According to the arrangements with regard to the succession to Gadi, it was laid down that where there was a natural heir in the direct line, he succeeded as a matter of course and the recognition of the succession by the King Emperor was conveyed by an exchange of formal communication between Prince and Crown representative. Paramountcy had therefore not much to do in matter of smooth and matter of course succession. Under the head Residuary Jurisdiction and protection of the interests of small States there were Guaranteed Giras arrangements. The Paramountcy had already begun shedding at the end of the second decade of this century, its functions in this matter by agreeing to remove the interference of the Resident in the guaranteed Giras matters. This problem also is dealt with in details elsewhere.<sup>2</sup>

Jurisdiction in respect of specified areas particularly cantonments and railway lands in the State was claimed by the Paramount Power either under express agreements or by virtue of long established practice.

In the case of Baroda, jurisdiction over Europeans etc. was exercised by the Crown not by virtue of any treaty engagements but on the score of Imperial policy.

The Crown, however, did not exercise any jurisdiction in matters falling under the specified offences.

1. *Infra*, p. 193.

2. *Infra* p. 144.

Education of minor and the minority administrations were justified by the British Government on grounds of the benefit of the Prince and the State. This subject is dealt with in its proper place as this function of Paramountcy *viz.*, intervention had an important bearing in Baroda history.<sup>1</sup>

It now remains to be said something with regard to the intervention due to misrule. This function of the Paramountcy had also to be brought in to play during the reign of Malharrao Gaekwad and is quoted fully in the *Butler Committee Report* under the heading Baroda case, 1873-75.

It would be seen that out of the three functions of the Paramountcy only the last, that is of intervenention with which the States of India were usually preoccupied. With regard to others *viz.*, External affairs and Defence, there rarely arose any dispute.

1. *Infra* p. 474.



### CHAPTER 3

## BRITISH INTERVENTION : ITS ORIGIN, NATURE AND SCOPE

To trace the origin and growth of the British intervention in the internal administration of the Baroda State it will be incumbent upon us to tell about the internal political relations of the British Government with the State that existed from the beginning of the 19th century.

The death of Govindrao Gaekwad in 1800 A.D. and the subsequent struggles of his sons and relations for the succession were the immediate causes of a more extended interference on the part of the British Government than it had hitherto exercised in the internal affairs of the Baroda State. Ravji Appaji, the then Minister courted the assistance of the British Government in men and money to support his master's rights. This was granted. Major Walker was appointed Resident at the Court of the Gaekwad, and British troops were placed at his disposal to assist the Gaekwad in his endeavour to consolidate his power. These efforts were successful, but in addition to outward and avowed enemies, another power, an *Imperium in imperio*, had arisen in the State, which threatened it with dissolution. A body of mercenary Arabs had become all powerful. For 40 years previously their Chief Jamadars had exercised a great ascendancy over the Government but about the year 1801-2 their influence had so increased that the entire administration of the State was in their hands. If the Baroda State were to be preserved in the hands of the reigning family, it was absolutely necessary that this element of danger should be removed. It was entirely out of the power of the Gaekwad to get rid of them; their pay was heavily in arrears; the Bankers of the town would not advance a pie to assist the State; they held the town and person of the Gaekwad in their hands and for the moment were masters of the situation.

Under these circumstances, Ravji Appaji, pursued the wisest course open to him. He met the Governor of Bombay, Jonathan Duncan, at Cambay and there on the 15th March 1802, a

convention<sup>1</sup> was entered into, in which it was stipulated that the Gaekwad should maintain a subsidiary force of about 2000 sepoys, one company of European artillery and two companies of gun lascars on condition that it would be employed for the reduction of the Arabs. On the 6th June<sup>2</sup> of the same year, a treaty was concluded between the same parties, in which in addition to the above stipulations, it was agreed that the Company should extend some pecuniary assistance to the Gaekwad, with the view of effecting a reduction in the number of the Arab force. The Company also promised its protection and countenance to the Gaekwad "in all public concerns according to justice and as it may appear to be, for the good of the Company ;" respecting which, on the other hand the Gaekwad was "to listen to advice"<sup>3</sup>. This latter interpretation was contended by the Gaekwad's Government later on as noticed previously as having mentioned in different way in the Marathi version of the treaty. Apart from this, the Agents were to be reciprocally appointed to reside with each of the contracting parties and so on. On the 29th July<sup>4</sup> in the same year, Anandrao Gaekwad ratified the stipulations entered into by his Minister Ravji Appaji, in a fresh agreement drawn up between himself and the Resident Major Walker, promising to reduce the Arabs to the number entertained formerly by Fatehsinh and giving the Resident the right of inquiring into the accounts and of taking the muster of the troops etc.

During the intermediate period, a protracted negotiation was carried on with the Jamadars for their peaceful evacuation of the city. They were informed that all their just claims should be satisfied and all their arrears of pay liquidated, but that in consequence of their treacherous and insubordinate behaviour they would not be permitted to remain any longer in the service of the Baroda State. It became apparent before long that they did not intend to agree to these terms, and had resolved to keep possession of the City. A force was, thereupon, moved against Baroda and it was invested on the 18th December 1802. On the 26th idem when the breach was

1. A. T. Vol. VI editlon V Article 2 p. 316.

2. *Ibid* Article 4, p. 318.

3. *Ibid* Article 5, p. 318.

4. *Ibid* p. 320.

reported practicable, and orders for the assault had been issued the Jamadars capitulated, they signed an agreement in which they bound themselves to evacuate the Fort, to release Anand Rao Gaekwad, to abstain from all future intercourse with the enemies of the Government and quit Gujarat after their arrears of pay had been liquidated ; *on condition that the Banhendhary<sup>1</sup> of the Hon'ble Company should be substituted for them whenever it had been granted either to persons or property.* The original Gujarati word is बांहेंदारी. This popular word has been adopted and retained in the record.

Such was the origin of the most of the Banhendhary engagements of the British Government at Baroda—engagements which have imparted a peculiar character to their intercourse with the State, and have been the fertile source of so many heart burning jealousies and disagreements from the commencement of the reign of Sayajirao Gaekwad in 1820.

At the period however, they were first entered into, their transfer to the British Government from the Arabs was regarded as very advantageous, from the great influence they seemed to the British Government in Gujarat and more particularly at Baroda, while at the same time, the Gaekwad sirdars were “deprived of a powerful means by which they derived a right of controlling their Government.”

Soon after the Resident Col. Walker proceeded to an investigation of the expenses of the State and to a reform of the various departments.<sup>2</sup> During their progress it was discovered that Sitaram, the adopted son of Ravji, Appaji who was appointed as Minister in 1803 was incompetent for the discharge of his duties. A Council of Regency was, therefore, established in 1804, and Fatehsinhrao Gaekwad, the heir-apparent was appointed at the head. During the period of Fatehsinhrao's administration the Resident was virtually the Manager of the State. Fatehsinh was in complete subordination to him, and acted on all occasions according to his advice.

On the 21st April 1805<sup>3</sup> a Definitive Treaty was concluded between the British and Gaekwad Governments in the preamble of

1. *Vide* A. T. Vol. VI 5th edition. p. 287.

2. *Wallace* Pp. 476.

3. A. T. Vol. VI 6th edition Pp. 340.

which were recited the preceding agreements of the 15th March 1802, which were to be consolidated into one treaty, the terms of which were (according to a written request by the Minister) to be drawn up in terms consonant to the Treaty of Bassein entered into with the Peshwa.

By the first article, all the stipulations of the three preceding conventions were confirmed and made binding on the contracting parties, their heirs and successors for ever.

On the eve of his retirement in 1808 Col. Walker in a lucid analysis of situation that existed in Baroda recommended continuance of "an active interference in and vigilant control over, every part of internal management" in the State without which all political advantages gained would get lost.<sup>1</sup> His successor Major Carnac too found many reasons for interference and the Bombay Government supported the Resident. However, the Governor General-in-Council at Calcutta differed from this view and favoured gradual withdrawal from this intimate relationship.

While this discussion was continued, on 6th November 1817, a supplemental Treaty was concluded between the British and the Gaekwad Governments, article 10 of which confirmed all the articles of the Treaty of 1805 "not contrary to the present engagement."<sup>2</sup> During the life-time of Anandrao, the Resident at Baroda had exercised considerable control over the internal administration of the country, but when Sayajirao his youngest brother, succeeded him, this control was in a great measure withdrawn and he was allowed to manage the domestic affairs of his State in his own way, under the promise that the guarantees of the British Government to Ministers and other individuals should be scrupulously observed. This was very clearly laid down in the minute dated 18th April 1820, drawn up by Mount-Stuart Elphinstone, the then Governor of Bombay, on the occasion of his visit to the Gaekwad's Court.

The principles established by Elphinstone were concurred in by the Government of India. This is shown in their despatch dated 17th June 1820 to the Government of Bombay.<sup>3</sup> But

1. Col. Walker's Remarks as quoted by *Wallace* Pp. 155-156.

2. A. T. Vol. VI Edi, V.p. 358.

3. As quoted by *Wallace* p. 323.

it seemed that this arrangement did not work well as Sayajirao thought his independence was violated and the Resident took objection to the Gaekwad's proclamation directing all petitions and complaints to be written on stamped paper and send them to the Darbar. This contest for power came to its climax when Sayajirao infringed with Septennial leases against the expressed wish of the Bombay Government.

Sayaji infringed the septennial leases soon after their establishment and insisted on his right to pay off the guaranteed loan in one lump and in his own way. Bombay Government objected to this and endeavoured to induce him to act upto this engagement, even went so far as to give up the septennial leases finally resolved to take into its own hands the fulfilment of the obligations to which the guarantee had been affixed.

A proclamation was accordingly issued on the 28th March 1828<sup>1</sup>, by which part of Gaekwad's districts, producing an annual revenue of upwards of Rs. 28,00,000<sup>2</sup> were placed under sequestration and their revenues assigned for the liquidation of the guaranteed debts.

Another complaint against Sayaji was the irregular payment of the body of 3000 horse which he was obliged by the treaty to maintain in an efficient State.

In the year 1830, therefore, additional districts were sequestered for this object and Ameen-oo-deen Hoosain Khan was appointed by the Government to command the contingent.

On this occasion the Government of Bombay directed the Resident "to maintain a scrupulous kindness of manner towards Sayaji, to forbear cautiously from every word and act that could offend or irritate and to seize every opportunity of conciliation."<sup>3</sup>

Elphinstone's policy of kind firmness was followed by two of his successors *viz.* Sir John Malcolm and Earl Clair. The latter paid even a visit to Baroda towards the end of the year 1831, in consequence of an urgent request made by Sayaji. Since then demands of various

1. *Elliot*, p. 142 *Wallace* p. 391.

2. H.P.O. File No. 34/25.

3. *Wallace* p. 405.



sorts had been accumulating against Sayaji until in 1838 they numbered 28. They were of various descriptions and included demands for compensation, for injuries inflicted on British subjects, infractions of guarantees, dismissal of his Minister Veniram, that the contingent of 3000 horse should be kept up in an efficient manner and so on and his repeated refusal to come to a settlement of these demands. Government determined in 1839 to sequester the district of Petlad, and to raise a body of horse at His Highness' expense for service in Gujarat, to be entirely under the control of the Resident, and to be commanded by the British officers. The attachment was, however removed on Gaekwad's agreeing to pay Rs. 3 lakhs per annum for the maintenance of the Risala in consideration of Khanderao's fidelity and devotion during the mutiny, the sum of Rs. 3,00,000 was remitted by the Government of India in 1858.<sup>1</sup>

In 1841, Sir James Carnac was impressing upon the Gaekwad's mind the need to "preserve inviolate, in the most minute particular every Bahendhary engagement of which British Government is a party."<sup>2</sup>, while in 1852, Lord Falkland was exhorting the British representative at the Native Court not to interfere with the actual Government of the country further than by exercising a personal influence, which may enable the Ruler without direct and visible interference, to sway the Council of the Darbar for the benefit of the people and the interests of the British power which he represents".<sup>3</sup> It seems the British Government while preaching moderation to its Residents, never gave up its right to interfere and time soon came when the conflict between the Gaekwad and the British Government became acute on this point.

In 1873, Col. Phayre, the then Resident began to exercise undue interference in the internal affairs of the State and to receive petitions from the Baroda subjects direct. On one occasion, he wrote in June 1873, about the serious maladministration of the state by the Gaekwad.<sup>4</sup> From the tone of the letter and the time

1. H.P.O. File No. 34/25.
2. A.T. Vol. VI Edition V. p. 68.
3. Return Col. Outram Part II p. 1321.
4. Col. Phayre to Bombay Govt., 20th June 1873 "East India" (Baroda) No. 1 p. 7.

it was written it appeared that Col. Phayre was out to discredit Malharrao Gaekwad on not so very serious grounds, if not insignificant or trifling and thus justify his own meddling into the internal administration of his State. One thing may be noted. The predecessors of Malharrao themselves had started raising their heads against the obnoxious incursions of the British Residents in their internal domain, which was not perceptible but was there as a nuisance. Malharrao, however, asserted his independence in rather bolder accent and unfortunately he had to deal with the Resident, who also cried aloud these as the violations of treaty engagements.

Government of Bombay, now thought it wise to address Government of India, informing the latter of their views on the situation that had developed. Recalling treaty provision of 1802 they pointed out that more than once it was agreed that the choice of the Minister would be subject to British Government's approval, till in 1867, the Governor of Bombay informed the Gaekwad that he would be free to appoint his Minister without previous sanction, in the confidence that the Gaekwad was too wise to jeopardise his administration by an unfit selection and that he would in future meet the resident in a conciliating and the liberal spirit<sup>1</sup>. The Government of India found it difficult to agree with Bombay Government's views,<sup>2</sup> however, they were of the opinion that the alleged general misconduct of Baroda State was a legitimate subject for inquiry and report by the Commission.<sup>3</sup>

In September 1873, an article was published in a native newspaper called 'Hitechhu'<sup>4</sup> containing serious charges against Malharrao and the copy of the same was sent to the Resident anonymously by post. The Resident sent the paper to the Gaekwad and requested him to give his explanation with regard to the allegations contained therein<sup>5</sup>. The Resident, at the same time, reported the matter to the Government of Bombay.<sup>6</sup>

1. Bombay Govt. to Govt. of India 29th August 1873 H.P.O. Selection 26 Pp. 136-137
2. Govt. of India to Bombay Govt. 19th Sept. 1873. East India (Baroda) No. 1 p. 31.
3. *Ibid*
4. East India (Baroda Vol. 1) Pages 44 & 49.
5. Col. Phayre to Malharrao 23rd Sept. 1873, *Ibid*
6. Col. Phayre to Bombay Govt. 24th Sept. 1873 *Ibid*.

That Government forwarded copies of the Resident's letters for the information of the Government of India. This drew forth severe rebuke for the Resident from the Supreme Government, for his "injudicious proceedings".

However, at the end a commission of inquiry was set up. But then a difference of opinion arose between the Resident and the Commissioners as to the scope of inquiry. The Secretary of the Commission, while reporting to the Government of India the progress made by the Commission in the inquiry drew a line of distinction between two spheres where intervention could be permitted and where not.<sup>1</sup> However, at the end of its inquiry, the Commission found Malharrao guilty of maladministration and called for reformation. This was all the more necessary "especially with reference to the intermixed position of the Baroda and British districts and consequent intimate relations and interests existing between them."<sup>2</sup> The Bombay Government agreed with these conclusions.<sup>3</sup>

A copy of the Report of the Commission was furnished to Malharrao<sup>4</sup> in order that he may be able to express his views upon it before the Government of India determined upon any friendly advice to be given to him. A reply was sent by the Gaekwad to the Report in the shape of a Khareeta dated 17th May 1874<sup>5</sup> to the Viceroy wherein he profusely quoted from the minutes, letters and treaty provisions of authoritative officers and responsible persons, and argued that interference was not permitted in the internal affairs of Baroda by the British Government.

On 28th May 1874, after eleven days of the above Khareeta from the Gaekwad a minute was recorded by the Bombay Government and is worth quoting :

"14. We are here, under providence, as the Supreme Ruler of Hindustan. No Native Prince however high is really "Independent" in the proper sense of the word, none have the powers of peace and war and we have always

1. Inquiry Comm. to Bombay Govt. 1st December 1873, East India (Baroda) Vol. 1 pp. 57.
2. E. I. Volume 1 p. 87.
3. *Ibid* p. 70.
4. *Ibid* p. 346.
5. H.P.O. File No. 34/25.

considered it our duty to interfere in cases of bad government, and we must do so, or we shall fail in our duty to God and the people of India."<sup>1</sup>

After a careful consideration of the Report of the Commissioner, the Government of India came to the conclusion that it would be preferable to hold the Gaekwad himself responsible for the good Government of his State, under a warning that if before 31st December 1875, he did not reform his administration he will be deposed from power.<sup>2</sup>

At this stage, when the relations between the British and the Baroda Governments were strained, to the ill-luck of Maharaja Malharrao, a certain plot for the life of the British Resident was unearthed and with regard to which certain imputations were made against the Gaekwad himself. A Commission was instituted again to inquire into the truth. After going through evidences, the Commissioners were divided in their opinion.

In view of this and for other weighty reasons the Government of India found it inexpedient to make any alteration in the relations between the British Government and the State of Baroda.

By the proclamation of 9th April 1875 Maharaja Malharrao was deposed and the British Government promised to the new Gaekwad that no change will be made in their relations with him. The Home Government gave its approval to the course pursued by the Viceroy.

Col. Sir Lewis Pelly, who had succeeded Col. Phayre while recommending to the Government of India the deposal of Malharrao from power was constrained to observe on the other hand that "it is fair and it is my duty to state, that the minute and constant interference of the last Resident with internal affairs of the Baroda State could not have been otherwise than vexatious to a Ruler of that State. Mr. Dadabhai, a Minister trained in our own schools has more than once lamented to me that his administration has been cramped, harassed and in some instances brought

1. H.P.O. File No. 34/25

2. East India [Baroda] Pp. 353.

into contempt owing to all classes of the community entertaining a conviction that the Residency was a sort of Court of appeal against the Darbar."<sup>1</sup>

During the minority administration of Baroda State both Phillip Melvill, the Agent to the Governor-General, as the Resident was now designated, and the Dewan Raja Sir T. Madhav Rao worked and cooperated with each other in the atmosphere of great understanding and regard for each other,

It was during this period that the Government of India in unequivocal terms reserved its right "to interpose its authority" if the Gaekwad did not make a good selection of his Minister.<sup>2</sup>

Similarly the question of the A.G.G. directly receiving applications and hearing grievances in the course of his tour was also settled in 1884 by a polite warning from the then Dewan Kazi Shahbuddin.<sup>3</sup>

Thus it will be seen that it was only after the inauguration in 1875 of what may be termed the 'new era' in Baroda State, that sound financial position was achieved, British Guarantees were protected, administration got improved and justice was secured to the common man. Thereafter the British representatives too hesitated before interfering. Finally, the vigilance of the Ministers to deprecate even indirect intervention of the British representative in such an efficient state of affairs enabled the Gaekwad to enjoy considerable internal autonomy.

In such altered circumstances, where all grounds for interference of the British Government were removed the relations between the two Governments were again restored and maintained in cordial manner.

The position of the Resident had been redefined by Raja Sir T. Madhav Rao. He was described as the protector of British interests as well as those of the State. He was to hold the balance evenly between these two. He was also supposed to exe-

1. Pelly to Govt. of India, 7th January 1875. East India [Baroda] Vol. VI Pp. 41, 42.
2. Govt. of India to A.G.G. 1st June 1881. H.P.O. File 34/25 p. 71 ; 27th May 1882, H.P.O. Selection 26 Pp. 139-141.
3. Dewan to A.G.G., 12th January 1884, H.P.O. File 34/25, Pp. 73-75.

mplify by his actions and behaviour the noble virtues of the British people. At the end he was to protect the State against encroachments of other neighbouring A.G.G.s and other British officers.<sup>1</sup>

Nevertheless, the British Resident remained as a symbol of the Paramount Power and acted as a check on the evil-minded elements in the State who did not dare to disturb the general peace and also acted as a check on the over-indulgence on the part of the Ruler in luxury or other vices, peculiar to a Native Prince,

1. H.P.O. Minor Hints Lectures delivered to H.H. the Maharaja Gackwad Sayajirao III by Raja Sir T. Madhav Rao. Pp. 348.



## CHAPTER 4

### PROBLEMS RELATING TO THE STATE

#### A. JURISDICTION OR AUTHORITY IN MATTERS OF INTERNAL ADMINISTRATION.

##### (a) Railways.

In such an important branch of communication and transport like railway the policy of the Government of India was mostly guided by the all-India consideration and as such the interests of a Native State had to suffer. No doubt, by adopting this policy, the Government of India was placed in a very profitable position, as monetary gains were increasing day by day due to the all-round development of railway system and also with increasing trade and commerce.

The question of railway, then, seems to be divided in three distinct spheres with Baroda State. They are :

- a) Jurisdiction over railways in Baroda State.
- b) Construction of new railway in Boroda State.
- c) Claim of Baroda Government to receive compensation for lands handed over to the British for railway purposes.

In theory, Baroda State was competent to exercise jurisdiction in all places subject to it and over all persons including British subjects residing therein. Yet in respect of railways, the Baroda State had to cede full and exclusive power and jurisdiction of every kind on main trunk lines passing through its limits.<sup>1</sup> On isolated local lines lying wholly in Baroda limits, the State was allowed to retain jurisdiction on certain conditions. In case however, such isolated local line passed through bits of foreign territory, or was to be linked up with a main or a branch line belonging to another company or State, cession of jurisdiction was demanded in the peninsula of Kathiawad, where the State had some territory, Here the policy of British Government was very

1. H.P.O. File No. 195/15 Railways in Baroda Territory, Pp. 29-30.

inelastic. This policy stifled the rail road enterprise in the State.<sup>1</sup> Baroda Government was not allowed to exercise jurisdiction even on lines lying entirely in Baroda limits; because other States in Kathiawad would claim it, on their local lines. "The rights, privileges and position of all the Indian States, are not alike," it was argued in one of the representations on this subject by Baroda Government in this regard. "If some minor State accepts an obligation from some considerations peculiarly applying to itself, that is no sound reason for extending the same disability to other larger States which are better equipped to meet the situation." Baroda Government was also critical of the inelastic and repressive jurisdictional policy of the British Government.<sup>2</sup>

However, in the first decade of this century, there had been a relaxation, in some particular cases, of the above rules, so far as the Gujarat portion of Baroda territory was concerned.<sup>3</sup> In several cases, Baroda Government had been allowed to retain jurisdiction on portions in Baroda limits of local lines traversing small bits of foreign territory. The intermingled territories of Baroda and British Governments were in no small way responsible for the strict adherence of the British Government to a rigid and consistent policy regarding railways. Baroda Government had frequently demanded relaxation of the rigidity and an extension of the liberal policy, above alluded to.

The assumption of jurisdiction on railways in Indian States was sought to be justified by British government on grounds that, "There must be one law affecting the administration and the working of a line of Railways throughout its whole length. The very safety of the passengers requires uniform precautions against any neglect of duty. The vehicles must be safe, the line and its bridges looked after and the various details of the traffic department regulated by one common law. The Railway Police employed on the several parts of the line must work together."<sup>4</sup>

1. H.P.O. File No. 195/15 Railways in Baroda Territory. Pp. 29-30.

2. H.P.O. File No. 241/9.

3. *Ibid.*

4. *Lee Warner* p. 362.

From the numerous letters to the Residency and representations to the Government of India, in this connection we see that Baroda Government contested British arguments. It said that the laws of the Baroda State and their administration had been assimilated to the British system, and the Baroda Police owing to the interlaced condition of the Baroda territory as a whole, had acquired a habit of constantly working in cooperation with the Foreign Policy. British officers had expressed their confidence in the Baroda Courts, which had now an experience over 40 years of the exercise of jurisdiction on its local lines. "The fear, therefore, of failure of justice may occur by entrusting the Baroda State with the jurisdiction, which naturally should belong to it over all Railways passing through its limits is now unfounded. The circumstances of the case do not require the continuance of the exercise by the Governor General of 'delegated jurisdiction' of this sort in Baroda territory."<sup>1</sup>

Following were the lines in Baroda territory over which the British Government exercised both civil and criminal jurisdiction.<sup>2</sup>

1. Anand—Tarapur	Narrow Gauge.
2. Mehsana—Viramgam	"
3. Billimora—Kala Amba	"
4. Khijadia—Dhari	"
5. Okhamandal	"
6. B.B. & C.I.	Broad Gauge.
7. B.B. & C.I.	Metre Gauge.
8. Tapti Valley	Broad Gauge.
9. Ahmedabad-Prantij	"

Opportunity had been taken by Baroda State to make a representation to the Government of India to retrocede to the Darbar first the jurisdiction ceded by the Government of Baroda on portion of the following railways passing through Baroda territory :

- A. Anand-Petlad
- B. Billimora-Kala Amba
- C. Ahmedabad-Prantij
- D. Mehsana-Viramgam

1. H.P.O. File No. 341/9.

2. H.P.O. File No. 195/15 p,1,

This left only the question about jurisdiction on portions of the B. B. and C. I. and Rajputana Mehsana Railway main lines and the Tapti Valley Railway passing through the State for future determination. The question as regards jurisdiction on portions of Railways in Kathiawar passing through the units of the State had also been pressed on the attention of the Government of India (*Vide* letter No. R. 128 dated 13-8-1920).

(B) With regard to construction of Railways also, the Baroda Government had to experience difficulties.

Ordinarily no permission was to be obtained by a State for construction of the Railway line within the State. It was then suggested by the Baroda Government that the State should have its own Railway Act to regulate the working of such lines. But over and above this, what Gaekwad's Government was keen to have was this. In the case of through lines constructed by the Companies in the State, the Baroda Government, should be allowed to subscribe the portion of the capital expenditure on the lines within their own limits, and where this was not done, they should be given a share of the revenue other than interest on the capital sunk. But this demand had to bid time for an opportune moment when Government of India might think of complete reorientation of their Railway policy which looking to the trends, was not to come within a foreseeable future.

(C) The next important question was the claim of Gaekwad's Government to receive compensation for lands handed over to the British Government for Railway purposes.

When the B. B. & C. I. Railway was constructed in 1856 Gaekwad's Government had agreed to cede to the British Government in full sovereignty, the necessary extent of land in Baroda territory on the condition<sup>1</sup> :

(1) that compensation should be paid by the British Government for alienated lands and for trees, wells, houses etc. situated in the Sarkar land,

(2) that Gaekwad's Government should be recouped for possible diminution of the State revenue from customs and transit duties.

1. H. P. O. File No. 165/15 p, 1.

This arrangement was continued undisturbed till 1910<sup>1</sup>, when new principles for compensation were laid down by which it was apparent that future compensations were bound to be less than expected by Baroda Government.

There was still another principle which guided the policy of the British Government<sup>2</sup> towards Railways, and this we find working when the question regarding the proposed railway from Vasad to Katana *via* Borsad was raised by the Bombay Government. It was with a view to opening up communication with the town of Borsad (in Kaira District of Gujarat) and the country to the west of it.

If this railway was constructed, it was sure to affect adversely the earning capacity of the line connecting Anand to Cambay where-in lay Baroda Government's interest. All their protests harped upon the question of jurisdiction but they were of no avail.<sup>3</sup>

#### (B) The Baroda Cantonment

The Residency and the Cantonment were two physical features of the Paramount Power in a Native State of India. The mere idea of their presence in or near a State Capital was enough to dissuade those forces which might think of disturbing the internal peace and order, or rise against the Ruler or administration from launching on such activities.

They were results of history and perhaps were found essential for the general good at the time. But what the Native States came to object at a later period was that they had outlived their utility, that they were being utilised for such purposes, which were not intended at the time of their establishment.

Baroda Cantonment also had the similar story to tell. The fundamental question was that of jurisdiction.

In the year 1802, a small piece of land about a mile distant from the Capital was given for the occupation of the Subsidiary

1. *Ibid.* see note on subject dated 15th Sept, 1912, p. 25.

2. H. P. O. Files No. 108/1, 2, 3.

3. Huzur Cutchery letter dated 25th March 1911, Resident's reply of July 1912 and Huzur Cutchery letter of Sept. 1912, p. 25.

force stationed at Baroda. In 1822<sup>1</sup>, at the instance of the Resident at Baroda, Gaekwad's Government granted a parwana (permit) empowering the Officer Commanding the subsidiary troops in the Cantonment to try offences committed by the Sepoys (privates) and camp followers within Cantonment limits. Thus whatever authority was exercised in the Baroda Cantonment was by express consent of and delegation from Gaekwad's Government.

In 1867 on finding serious inconvenience and anomalies regarding the jurisdiction both civil and military over the Baroda Cantonment since it was established in the year 1802, when weak Anand Rao had to call for the help of the British, the Resident reported the case for the instructions of the Government with his remarks and urged the necessity of the appointment of an officer invested with the Magisterial powers to dispose of civil and criminal suits within the Camp limits.<sup>2</sup>

It was proposed to the Gaekwad that the same measures and arrangement should be adopted for the Military Camp at Baroda as was in force at Secunderabad<sup>3</sup>, where the powers of the Magistrate were exercised, subordinate to the Resident. That it was explained to the Gaekwad that the course proposed (appointment of the Cantonment Magistrate) would affect the British subjects and it would in no way infringe his legitimate authority or interfere with his inherent rights over the land<sup>4</sup>; and that as the Camp was in his and not in the British territory the Cantonment Magistrate in all respects be subject to the control of the Resident under the authority of the Government and that being convinced of these arguments, Gaekwad gave his consent to the course proposed by the Bombay Government to the Government of India. During the controversy it was maintained by Baroda Government that this consent was an unwilling one.<sup>5</sup>

Any how, in May 1874 an important ruling was given with

1. H. P. O. Selection No. XXXII 'Jurisdiction over Baroda Cantonment' Pp. 1-2.

2. *Ibid* Pp. 38 and 36.

3. *Ibid* p. 50.

4. *Ibid* p. 199. Para 41 of Lalji Parsotamrai's Memo.

5. H. P. O. File No. 341/61.



regard to an inquiry put up by the Cantonment Magistrate who inquired whether a person (originally a resident of Bombay and who had resided in Baroda only for 4 months) accused of committing an offence in the Baroda territory and who had taken refuge in the Camp should be made over to the city courts for trial without requiring a *prima facie* case for his surrender under Extraditory arrangements.<sup>1</sup> The Migistrate was informed that such a person even if he were the Gaekward's own subject, could not be made over unless a *prima facie* case was furnished through the Resident.

For the first time in 1887 the Government of India took up a new position. Full jurisdiction over all persons and things within a British Cantonment were claimed by virtue of British troops' occupation.<sup>2</sup> Moreover, in 1888 complete civil and criminal jurisdiction over the Baroda Cantonment was assumed by the British Government till their garrison was withdrawn.<sup>3</sup>

Thus, two separate jurisdictions had come to be established in the Cantonment area *viz*:

1. The Military jurisdiction of the Military Courts-Martial, over the sepoys, servants and camp followers of the subsidiary force stationed in the Cantonment area, and

2. The jurisdiction of the Cantonment Magistrate, Civil and Criminal, over British subjects residing in the Camp, who were not subject to the military law. In connection with this criminal jurisdiction there existed higher criminal powers which were exercised by the Agent to the Governor General.

Baroda Government objected to such an outright assumption of full control over Baroda Cantonment<sup>4</sup> against treaty stipulations, but on the face of weighty arguments of Imperial policy<sup>5</sup> it had no other go but to submit.

From the voluminous correspondence on this subject it is to be noted that in the nineties Baroda Government contended the grounds on which the jurisdiction over the Cantonment was sought

1. H. P. O. Selection XXXII p. 134.

2. *Ibid.* Resident to Baroda Govt., 8th Feb. 1887, Pp. 148.

3. Resident to Baroda Govt., 17th March 1888, *Ibid.* p. 153.

4. Dewan to Resident, 31st August 1888, *Ibid.* Pp. 165-181.

5. *Lee Warner*, Pp. 360-61.

for by the British Government. It was of the opinion that the time had come when the assumption of such an all round jurisdiction over its territory occupied by the Baroda Cantonment was hardly necessary in the circumstances of the case. It further said that while no objection could be raised to the exercise by the British Government of the Military jurisdiction over the troops stationed in the Cantonment and of the consular jurisdiction of the Residency over its servants and its dependents, yet the other measures which had hitherto been considered necessary for the safety of the army might well be left to be carried out by the Baroda Government itself, who would at the times, it was communicated, be ready to give due attention to the advice of the British Government in such matters.

The Baroda Government also complained of the then existing arrangements for the control over the Cantonment to which they said, as mentioned elsewhere, His Highness' Government had given an unwilling consent. It again observed this when in 1889<sup>1</sup> the question of Cantonment jurisdiction as a whole was discussed. The basis of the arrangement to be made in revenue and fiscal matters was indicated by the then Agent to the Governor General at a personal interview with the Minister. Baroda Government were then given to understand that all revenues arising from stamps, opium, abkari and registration would be paid to them after meeting the necessary expenses for their collection and so on. Subsequently, too, it was assured more than once that the orders of the Government of India in revenue matters would soon follow the settlement of civil and criminal jurisdiction. Relying on this assurance the Baroda Government ceded both the civil and criminal jurisdictions. But after its cession, the Government of India did not give effect to the original understanding in respect of revenue and fiscal matters and the promise held out was not fulfilled and above all Residency declined to discuss the question any more. Baroda Government then bid its time for another representation on the matter.

### (C) Europeans and other Foreigners

Another prominent inroad in the sphere of jurisdiction or

1. H. P. O Selection XXXII, p. 183.

authority in matters of internal administration of a Native State was the thorny problem of dealing with the foreigners.

It dated back to those dark days when in the eighteenth century the mighty Mughal Empire had become an event of past and innumerable chiefships, principalities, states and estates had grown up like mushrooms in the monsoon, in absence of any single power dominating this vast sub-continent. East India Company was struggling as one of the powers among many and through negotiations, alliances and wars it came out later on as the most powerful political force in India. It had entered into treaty alliances with many States. In all those treaties and engagements one of the stipulations used to be regarding the employment of a foreigner. At that time it was demanded on friendship basis as they were keen to see that their friendship was not endangered due to the enemy influences in the employ of a native State, if it happened to engage either French, Portuguese or Dutch. The stipulation demanded a prior approval of the Government of India to the employment of a foreigner.

This obligation was provided for in the Treaties with many of the important States from 1766 A.D. to 1881 A.D. Some treaties stipulated that the employment even of British Indian subjects required the approval of Government. The Government of India consistently required the observance of this obligation, where imposed by treaty and in the case of other States it had been regarded as a generally accepted, essential principle. Originally the stipulation was made in Imperial interests at a time when rivalry of European powers was an important factor in the politics of India. At a later date, the protection of the interests of the States against adventurers came into prominence.

Thus not only an employment of an alien but later on the jurisdiction over them also as a natural corollary passed under the control of the Central Government of India. The employment of the Europeans, of aliens in the service of the State required the prior approval of the Government of India from old times. It had been one of the stipulations of the Definitive Treaty of General Defensive Alliance arrived at between the British and the

Baroda Government in 1805<sup>1</sup>.

In this connection, therefore, Baroda Government presumed that

- “(1) The Government of India desire that Darbars before taking into their employment, temporarily or permanently a European British subject or the subject of any Foreign power should obtain through the usual political channel the approval for the authority empowered by the rules of the Government of India from time to time in force to give it.”<sup>2</sup>
- (2) The Government of India do not desire to be consulted regarding extensions of service or increases to emoluments of service or increases to emoluments of person other than Government servants or pensioners engaged after consultation with them.”<sup>3</sup>

This practice continued till the question was taken up by the Government of India at the insistent demand of the Conférence of Princes and Chiefs, for consideration. The question was then referred to the Codification Committee in 1920, which was appointed according to the suggestion contained in Montford Reforms.

The Codification Committee met in January 1920 at Delhi. The Political Department of the Government of India laid down before this Committee the summary regarding their policy towards this question to initiate discussion.

It is interesting to note that one of the four reasons given for jurisdiction over aliens was the anxiety of the Government of India to keep away Bolshevik intrigue.<sup>4</sup> However, it was made clear that Imperial interests demanded such powers for the Government of India. Later on, the Codification Committee's recommendations, among other things, continued the Central Government's upper-hand in this matter.<sup>5</sup>

1. Article IX of the Definitive Treaty, 1805, A. T. Vol. VI Edition V., p. 343.
2. Government of India in the case of the Government of Baroda.
3. H. P. O. File No. 341/73.
4. *Ibid.*
5. *Ibid.*

So far as Baroda Government was concerned, it was not opposed to the Central Government's claiming voice in regard to employment of Europeans in the State service, but the Dewan, Manubhai Mehta, did demand a change in the outlook of the British Government in this attitude and remove as many restrictions as possible.<sup>1</sup>

While expressing his opinion on this question one of the Councillors of Baroda Government had suggested that this opportunity of communicating views of the Government should be utilised to demand even jurisdiction over Europeans, American and other aliens; but it was not thought proper to raise that question at that juncture.<sup>2</sup>

As regards jurisdiction over Europeans and Americans, the Baroda Government held that *prima facie*, the sovereign within whose jurisdiction they happened to be for the time being should have jurisdiction over them in all matters unless that right was surrendered by agreement. But it had been the policy of the Government of India not to allow the Indian States to exercise jurisdiction over them on various grounds. It was also held that as the larger states had engaged by treaty not to employ Europeans and other foreigners in their service without the sanction of the Government, their claim to try them for offences committed in the States was unreasonable. Again the British Government claimed that as it was responsible in their international relations to the foreign countries, it was necessary to provide a system of justice to which foreign powers could take no exception on behalf of their subjects. It was urged by the Central Government that "very few native States possess jails in which European convicts could with proper regard to their health be incarcerated. The embarrassment into which a Native State might be drawn by any injudicious proceedings against an European British subject suggest the wisdom of avoiding the exercise of a right of trial which might be a doubtful boon to them. The necessity of conducting the proceedings in a language intelligible to the European accused would of itself prove inconvenient in many cases, and delay the trial."<sup>3</sup>

1. H. P. O. File No. 341/73.

2. *Ibid.*

3. H. P. O. File No. 341/4.



However, Baroda Government was of a different view. They believed that the times when such jurisdiction was claimed by the British Government had changed very much and, therefore, many fears were unfounded. In any case, Baroda Government was prepared to listen to advice when consequences of an International nature arose.<sup>1</sup>

Despite protestations both questions of employment and jurisdiction over the foreigners were treated by the British Government on the score of Imperial considerations and as such the voice of an Indian State had to fall on deaf years. Again, the Indian State was at further disadvantage in this controversy as there were frequent occasions for a Native State to ask for the services of a foreigner or a member of the Indian Civil Service than was the case with British Government, which hardly required service of an employee, former or present, of a Native State.

However, the question was sympathetically considered and the solution of this question was facilitated by the steps that were taken in British India in deference to popular feeling to modify the procedure for the trial of European British subjects committing offences punishable under the Indian Penal Code. The reference here is of course to 'Ilbert's Bill' which Government of India passed with necessary modifications as there was a great furore made over it by the Anglo Indian Community of British India.

#### **(D) Guarantee to certain subjects of the State**

We have been considering the question of jurisdiction in the preceding chapters and from it, it is now fairly clear that jurisdiction in internal affairs of the State was also not fully enjoyed by the Native Government as there were certain checks over some definite area of land like Cantonment or definite section of people like Europeans and British Civil Servants. But one of the most disliked features of a British policy, which was to be found in almost all the Native States, to a lesser or greater extent was the institution of a Guarantee. At the same time, however, it was most interesting of all.



We may now briefly state what it exactly meant.

It is a mistaken view that it were the British who introduced this system of giving guarantees to certain subjects who rendered yeoman service to the British cause in India in any form or to a certain class of subjects who remained loyal to the British in times of stress; in both the cases the adherence to the British cause was not necessarily always antagonistic to the good of the State. This would be evident when we talk of the question of guarantee as found in Baroda State. Its origin, therefore, was to be found in individual history of a State.

This institution, however, indicated one singular fact viz. Sovereignty lay somewhere else and not in the Native State or in its Ruler. It was a distinct act of interference from the point of view of a Native State which advocated Sovereignty for itself in the internal jurisdiction of a State. This sovereignty of the State now was a common feature in the representation or petition of a State to the British Government.

Native States used to abhor it not because it was in itself that constituted an act of interference in the internal administration of a State when particularly applied to these Guaranteed subjects or classes only. But its later interpretation by different political officers according to their own whims, to cover the 'area' which was not at all intended while it was given. This was particularly its mischievous characteristic and a subject on which consistent demands were made for redress.

There was also another point which was often raised by a Native State relating to this question. Their representations frequently referred to the inconsistency of a British policy with regard to the subject of guarantee. The inconsistency was both internal and external. The internal inconsistency occurred when British Government showed its, in the initial stages, aversion to the continuance of this system of giving guarantee, but was to be found later on, not only continuing the old ones but also giving new ones. External inconsistency occurred when firstly the nature of the guarantee was modified by British Political officers by different interpretations put for it and secondly its continuance even when it had outlived its utility.

There was also another point of view of looking at this institution of guarantee which could not be avoided in the new order of things. The Native States urged the abolition of this system of giving guarantee to the subjects living within their boundaries. But at the same time they forgot that the continuance of their State and Government and also the dynasties of their Rulers along with the protection of their persons were also guaranteed by the British Government against internal revolution or external aggression. The question now is what was the place of guarantee in Baroda State.

One class of cases in which the British Government interfered in the internal administration of the State was in respect of certain subjects of the State who enjoyed the 'Guarantee' of that Government. These guarantees came into existence during the course of events in the Nineteenth Century.

In the beginning of the last century the Arab mercenaries in the employ of the State having become formidable and having on one occasion defied the authority of the constituted Government, it was agreed with the consent of the British and Baroda Government to disband them. These mercenaries were in the habit of guaranteeing the fulfilment of certain contracts between the State and its subjects or pledging to protect the latter from molestation by the State. They made it a condition of leaving the Baroda State and its service that the guarantees given by them should be taken over by British Government. The latter complied with the request and moreover adopting the same practice they also granted new guarantees. In course of time, innumerable guarantees came into being, and as the people who possessed them sometime disregarded the legitimate authority of the State, and as the State had to take measures to see its authority respected, complaints arose on both sides. This led to the British Government laying down a policy whereby among other things it was ruled that no more guarantees should be given and that the Government should withdraw from the existing guarantees whenever it could do so with a due regard to its good faith.

Even after abolishing many guarantees there remained four persons enjoying these privileges. They were<sup>1</sup> :

1. H. P. O. *Reply* p. 19.

- (1) The Desai of Navsari.
- (2) The Desai of Palsana.
- (3) The Pol Pagedar and
- (4) The descendants of Sunderji Nilaji.

The guarantees to the first two holders were not hereditary, but it had been held that as hereditary office and emoluments were guaranteed they were perpetual. The holders were granted exemption from service on the strength of the guarantee. How the second holder of the guarantee *viz.* Desai of Palsana came to be absolved from the obligation to render service was interesting. The Desai of Palsana (a village in the Surat District of Bombay State) having represented to the Residency that Baroda Government had issued an order that he or some member of his family should render service to the value of 6/16 of his Vatan and that on failure to do so, half the Vatan would be deducted, the Resident informed the Baroda Government that the case of the Palsana Desai was on all fours with that of the Navsari Desai in which the Government of India had ordered that service could not be demanded by the Baroda State from the Desai in respect of the Inami village of Kolasna.<sup>1</sup> It was pointed out to the Resident by Baroda Government that the analogy between the Navsari and the Palsana Desai's cases was only apparent and not real, but the Resident would not believe it.

In 1911<sup>2</sup> the Residency advised Baroda Government to withdraw the claim on the ground that from the date of the Sanad till 1892, *i.e.* for 90 years, no service had been demanded by Baroda Government from the family, and that the Desai's interpretation of the phrase was correct judging from the subsequent conduct of the parties.

It is interesting to note the opinion of the Legal Remembrancer of the Baroda Government to whom the request was made for legal opinion. He Stated, "there is no chance of the Government of India deciding the question in our favour and against the opinion of two successive Residents, more especially as no service was demanded of the Desai for nearly a century, and the Government of India and

1. H. P. O. File No. 72/78 A.
2. H. P. O. File No. 72/86.

the Secretary of State have given decision against us in a similar case concerning the Desai of Navsari."<sup>1</sup>

The holder of third guarantee was the Pol Pagedar. He was the killedar (commander) of the fort of Kaira (a District in Gujarat). When the fort was granted to the East India Company in Inam in 1803, the allowances received by the Killedar and his brother were continued to them under the guarantee of the British Government. It was maintained by the Baroda Government that his Sanad of guarantee contained no words implying perpetuity, and even though this was pointed out the guarantee was still being continued.

The history of the holders of the fourth guarantee viz. the descendants of one Sunderji Nilaji was rather amusing. Sunderji Nilaji was employed in 1802 A.D. by the then Resident, Col. Walker, as his Native Agent.

Sunderji having been taken prisoner by Malharrao Gaekwad of Kadi and ill-treated on the occasion of the Kadi war, a hereditary pension of Babashai Rs. 1200/- p. a.<sup>2</sup> was granted to him by Baroda Government on the recommendation of Duncan, then Governor of Bombay.

Subsequently the guarantee to the East India Company was affixed to the grant "without obtaining the consent of His Highness' Government, and the pension is now paid to remote descendants of Sunderji, although they reside in Bombay and render no service to the State."

The Baroda Government thought perpetuating these guarantees as 'absurd' and inquired as to what justification could there be for perpetuating burden of the pension on the State.

There was still another question of the guarantee to Sundarji Nilaji regarding its mode of payment which was not usual and to which Baroda Government took exception.<sup>3</sup>

The practice had been in vogue for a very long time. In 1878<sup>4</sup>

1. H. P. O. File No. 72/86.
2. H. P. O. File No. 72/82 A.
3. H. P. O. File No. 72/82 B.
4. H. P. O. File No. 72/27.

the question was raised by the Baroda Government but the Residency advised them to maintain the *status quo*.

Again a representation on this subject was sent in by the Baroda Government to the Resident in 1910<sup>1</sup> with a request that it should be transmitted to the Government of India, but he declined to forward it on the ground that the lapse of a long period made the case stronger for the recipients of the allowance.

It was very clear that British policy in this regard was unbending and Government of India refused to reopen the questions that were settled long ago. It appeared to them that reopening of such questions only resulted in the embarrassment of both the Governments and set new precedents which might have still dangerous consequences in future.

On the other hand, Baroda Government consistently pointed out in their representations many inconsistencies saying: "These guarantee-holders have privileges of exemption from the general taxation of service although they enjoy all the benefits of the improved administration, an anomaly which offends against the present day ideas of good Government of a country."<sup>2</sup> But times were still unfavourable for them and guarantees continued to their annoyance.

The British Government refused to be drawn into discussion on such acts of faith, whereby they could indirectly maintain even a show of the supremacy, in law courts. This feature of their policy towards the Native India was characteristic of an Indian Political Law which was at the base of their relations with Rulers their States and their people.

#### (E) Tributary Girasias in the State

Apart from certain subjects of the State to whom guarantee was given, there was as a class, as a whole, guaranteed in the State, for which certain special procedure for the dispensation of justice and providing with other amenities were required to be created. This class consisted of Girasias. The word Girasia is derived from the term 'Giras' which will be explained later on. It was a more

1. H. P. O. File No. 72/82 A.

2. *Ibid.*



numerous class of people who considered themselves entitled to invoke the interposition of the British Government against the unfavourable decisions of the Baroda State to uphold their guarantee. This class consisted of :—

(1) The descendants of the Mahikantha and Rewakantha tributaries who held Giras lands in the Baroda territory.

(2) The descendants or the brethren and collaterals of the above tributaries, who were given by the latter lands in Baroda territory for their maintenance.

(3) Some non-tributary land holders who were residing in Rewakantha at the time of the settlement of 1825.

Here also the chief element of mischief was the interpretation of the guarantee by the political officers by which the area of guarantee was widened so as to include the dependents of the originally guaranteed Girasias, similar to that in the case of Navsari Desai's Gumastha or Clerk, who thought himself to be guaranteed along with his employer; as he was dependent for his livelihood on his master's income. The first two sub-classes did not possess the direct guarantee of the British Government, the guarantee in their case was merely constructive. The theory was *that as the British Government was responsible for the collection of tribute, all the sources of tribute must be safe-guarded and no diminution in the revenues of the tributaries should be premitted*. The origin of this theory lay in the history of the Girasias. Baroda Government, no doubt, took immediate exception to this theory when propounded.<sup>1</sup> The immunity of the Girasias' holdings from taxation had been persisted in to such an extent, by the British Government that people residing in them were not allowed to be subjected to the State Income Tax on incomes derived by them in the state *outside* such holdings. It is interesting to know how the immunity from the applicability of a general tax like local and Income tax were demanded by the Girasias through the Residency, which played an important role in pushing up their claims against the State.

#### Local Cess

A Local Cess of one anna on every rupee that was assessable.

1. H. P. O. Reply p. 21.



to the ordinary land revenue or that would have been so assessable had there been no alienation of such revenue had been levied on all lands in Baroda territory.<sup>1</sup> The Baroda Government moved the Residency to give its consent to the levy of Local Cess on the lands of the guaranteed Girasias within Baroda's territory. It was explained that the cess was not a tax on particular lands but on all lands within the State and the measure was meant to provide funds for local works of public utility and convenience and to make better provision for education and sanitary improvements in the State, and that if the guaranteed Girasias were exempted they would enjoy the benefits at the expense of the other subjects of Baroda State, which was not fair. The Resident replied that the essence of the settlements of 1820-25 was that the Baroda Government should levy nothing more from guaranteed Wanta than they did at that time, and that the Girasias should pay only the tribute, Jamabandi, salami and Sarkar dues they paid at that time; that unless the levy could be identified with any fee paid to the Baroda Government, in or before 1820-25, or with a fee of later origin but sanctioned by usage, it could not be allowed. Besides, it was urged that the wantadars were contributing towards the finances of the State in the shape of the fixed Salami or Sarkar dues and tribute; and that the Wanta cultivators were worse off than the cultivators of Sarkari lands, for they paid rent in addition to the Salami and if the cess were levied they would throw up the lands and thus the revenues of the Girasias would suffer and the guarantee be infringed.

In their reply to the Resident's arguments, Baroda Government based their stand on two fundamental considerations *viz.* an appeal to 'equity' that these Guaranteed Girasias should not be allowed to enjoy the benefits of the works of public utility and improved administration for which they have not contributed and secondly, the inherent right of the State to tax whom and what. On the other hand the British Government based their arguments on considerations of 'faith' and their 'responsibility' towards Girasias.

Subsequently, the Baroda Government supplied the Resident with a statement showing that "there were 1,01,406 Bighas of guaranteed Giras lands in Baroda territory and the amount of local

1. H. P. O. File No. 341/4. From a note on the subject.

Cess leviable would approximately come to Rs. 7667-8-0 per annum.<sup>1</sup> On the Residency inquiring whether Baroda Government levied any general tax on guaranteed Giras lands in the past the Dewan replied that the claim to levy a general tax had not been negatived in the past by the Government of India, and that such a right followed by implication from the prohibition contained in Rule 7 of the Rules of 1878 against the levy only of a special tax without the consent of the Government of India. This strong appeal, however worked.<sup>2</sup>

### Levy of Income-tax

Similar interesting story was about the imposition of Income tax. A Notification was issued for levying income tax from the inhabitants of Wanta Gabhans on incomes made by them outside the Wantas but within Baroda territories. The Residency urged that such an order might not be issued until their sanction was obtained. In the first instance, it was pointed out by the Baroda Government "that the imposition of the tax did not prejudicially affect the residents of the Wanta Gabhans as such, for such rights could extend only as far as the limits of those Gabhans ; that if they made or received any non-agricultural income outside the Gabhan limits and within Baroda territory, they could only do so subject to the incidence to which such incomes were liable under any general measures obtaining in Baroda territory ; and that if any Wanta resident claimed exemption under any particular circumstances or for special reasons, it was for him to establish his right in that respect in the Giras Courts."<sup>3</sup> The Resident, however, took exception to the levy of the tax on the grounds that although many residents of Wanta holdings presumably enjoyed income in 1820 A. D. and 1825 from sources outside these holdings, still, no tax was then levied ; that the imposition of a fresh tax was especially prohibited, and that under present agreement residents of these lands should apparently continue to enjoy immunity from taxation on earnings derived from outside sources.

Pending the final disposal of this question the levy of the tax

1. H. P. O. Printed Papers from a note dated 15-9-1912.
2. *Ibid.*
3. *Ibid.*

was held in abeyance by the Baroda Government, but made a pointed reference to the anomalous position that existed.<sup>1</sup>

With this we may now pass on for the history of Mahikantha and Rewakantha Mul Girasias, Mahikantha Girasias and their Bhayads or (Collaterals) and Rewakantha Girasias.

To understand the right meaning of the word 'Giras' frequently used here we will have to know some of the technical terms which are co-related with Giras viz. "Wanta" their holders which were called "Wantadars", "Sulput", "Tora Giras", "Vol", "Rukhopa".

### Wantas

By an arrangement made between the Mohamedan conquerors and ancient lords of the soil in Gujarat, viz Rajputs, Bhils and Kolees, the latter were allowed to retain the fourth part of their estates under the name of "Wanta". The larger portion of each village or estate which was retained by the Mohamedans was called "Sulput".<sup>2</sup>

These Wantas were held free of tax and the general authorities of the holders over them was not disputed.

When the Marathas overran the country they contended themselves with exacting tribute, from these petty chiefs and respected the Wanta system as they found it.

In the confusion which attended the struggle between the gradually waning Mohamedan power and the vigorous Marathas in the Eighteenth century the petty chiefs took the opportunity of securing to themselves a share of the plunder which was then going on. "They descended from their holds and fastnesses in the jungles into rich plains of Gujarat and exacted from the open villages various dues under the names of "Tora Giras" (money stipend), "Vol" (Blackmail), "Rukhopa" (protective money) etc. which were levied either in cash or kind and bore the general name of *Giras*".<sup>3</sup>

1. H. P. O. File No. 341/4.

2. Residency File No. 423 'Mahikantha Girasias'.

3. *Ibid.*

When the English began to take an active part in the affairs of Gujarat in the beginning of the Nineteenth century, the country was being distracted by two forms of systematised revenue exaction from different quarters. On the one hand the petty chiefs were levying their dues as already described, and on the other the Marathas were sending out their annual "Mulukgiri" or Revenue collecting Army which after exacting by a show of force a tribute from the petty chiefs, as the recognition due to the strong by the weak, 'wrung from the villagers en route what they could in the way of contributions to the free booters purse' and then handed them over to the mercies of the smaller powers.

The main object of the first conventions that the British Government entered into with the petty land proprietors in Gujarat was to settle in perpetuity the tribute they were to pay to the Gaekwad and secure to them in return the dues which they at the time had established for themselves in the villages under the Maratha Dominion. The system of perpetual settlement which was adopted in the neighbouring peninsula of Kathiawar in 1807 with great success, was introduced in 1821<sup>1</sup> in the Mahikantha and an arrangement was made with the petty chiefs by which they agreed to pay Gaekwad's dues on the average of what had been collected during the 10 preceding years.

A Security Bond of Sixteen Articles<sup>2</sup> was taken from them by which they bound themselves to abstain from all lawlessness and plunder and the harbouring of plunderers, to refrain from parting with or pledging their lands, Giras, or villages without the consent of the Government, to assist in keeping the peace in their boundaries and to give compensation for robberies committed in them if satisfactorily traced and so on, in return for which they received the assurance regarding the tenure of their Giras in Article 6 of the said Bond.<sup>3</sup> With respect to this Bond it was strange that the Gaekwad's name was not specifically mentioned in it; but there was both external and internal evidence to show that among the British and

1. A. T. No. C XXXVI of 1812, Vol. VI. p. 502

2. H. P. O. Selections No. 26 Pp. 458-465 in Gujarati

3. *Ibid.*

the Talookdars concerned it also referred to the Gaekwad.

It was important to consider how far this Bond was binding on the Gaekwad, because ever since 1812 it had been regarded as the "Magna Carta" of the Mahikantha Chiefs, the guarantee of their established rights and the witness of the period upto which they maintained their ancient independent position.

For fifty years after taking of the Security Bond from the Mahikantha Chiefs they were left by political authorities and the Gaekwad to do very much as they liked.<sup>1</sup> The political Agent began to be pestered with complaints of the petty chiefs in the Mahikantha in the time of Khanderao Gaekwad. They cried out that their Wantas were being encroached on and their guarantees outraged. The Political Agent could do no more than forward on their complaints to the Resident at Baroda. He also began "to look around or see what these guarantees were and how far the complaints were entitled to them."<sup>2</sup>

Prior to this period the Bombay Government had ruled that if the Gaekwad withheld the payment of Giras, Political Agent, Mahikantha might deduct the amount due from the tribute to be paid by the sufferer<sup>3</sup>. So when in 1868<sup>4</sup> Khanderao Gaekwad wished to levy Enam Commission fee of 2 annas in the rupee from the Mahikantha Chiefs, *not being tributaries*, he was induced to abandon the intention through the intervention of British political officers.

In 1866, the Government of Bombay had again ruled that "they (Government) were already entitled to insist that the Gaekwad should not withhold one of the principal sources from which the Tribute is collected"<sup>5</sup>

The Political Agents in the Mahikantha were anxious to apply the guarantee contained in the Security Bond of 1812 to all matters of Giras pending between the Chiefs and the Gaekwad and they

1. Melvill's Memorandum on Giras and Wantas. Appendix W Pp. 222-23.
2. Residency File No. 423.
3. *Ibid.*
4. Melvill's Memo on Giras and Wanta. p. 3.
5. *Ibid.*

also maintained that the rights enjoyed by the tributaries were extensible to their Bhayads or relatives.

This was, however, a question which the Resident at Baroda Col. Wallace had proposed to inquire into. In Article 6 of the Security Bond it was stipulated that the Chiefs should give a detailed account of their Giras to Government and as "Government shall provide for its payment...we shall abide by it". This detailed account, however, did not appear to have been given at all.

In 1868, Col. Wallace being aware of the deficiency was desirous of having a registry made of the claims of Mahikantha Chiefs both for 'Tora Giras' (money payment) or land. The Registry he said was to contain the name of the party and his present residence, the nature of his claim and the grounds on which he claimed British interference on his behalf.<sup>1</sup> But this work was not easy. The greatest difficulty was that in many cases papers relating to guarantees could not be found.<sup>2</sup> On the other hand there were number of boundary disputes between the British Government and the Baroda Government and cases in those areas could not be decided. Thus, in many cases modification, through interpretation and interference of political officer came to be attached to the original clause of the Security Bond of 1812. The case of Salree village, claimed both by Thakore of Mansa and the Gaekwad, is a typical case of such interference of the Political Agent.<sup>3</sup>

With reference to this subject Col. Barr, reported to the Government of Bombay on the 14th November 1868 that he had "induced the Darbar to exempt from their civil procedure lands lying within Baroda jurisdiction belonging to Talookdars of the Mahikantha for the collection of Tribute for whom the British Government is responsible" and the Bombay Government "hoped the arrangement reported by Col. Barr will prove satisfactory."

#### **Mulgrasias of Amreli Mahals in Kathiawar.**

Another class of Girasias which demanded the interference of

1. Wallace's letter dated 5th Oct., 1865. Residency File No 423

2. *Ibid.*

3. *Ibid* p. 123.



the British Political Officers in their relations with the Gaekwad Government was Mulgirasias of Amreli Mahals of Gaekwad's Dominion in Kathiawar. This was an important case of guarantee as it delayed for a considerable period, the reorganisation of political arrangements in Kathiawar, pending its final solution. The allusion to this reorganisation has been made elsewhere and here we won't stop for its consideration, but proceed to trace the history of the dispute over this problem between Baroda Government and the British Government.

Upto the year 1820, the suzerainty of the whole of the province of Kathiawar was vested in Baroda Government is evident from the history of Gujarat. In that year the Hon'ble Mount Stuart Elphinstone, the then Governor of Bombay, visited Baroda and persuaded Maharaja Sayajirao II to agree not to sent his troops into the lands belonging to the Talookdars of Kathiawar and the Mahikantha as noted in the preceeding pages, without the consent of the British Government and not to prefer claims against the said Talookdars or other persons residing in the said provinces except through the medium of the British Government. The latter, on their part undertook to procure the payment of tribute free of expense to Baroda Government.

The Baroda Government was of the opinion that by this arrangement Baroda Government only *delegated* to the British Government the right to collect tribute from the Talookdars residing in Kathiawar, but remained in full sovereign possession of the Mahals of Amreli, Dhari, Damnagar, Kodinar and Okhamandal, which continued under their direct sway. In these five Mahals the question of somebody else's jurisdiction could never have been thought of. But history has a different story to tell. "The arrangement of 1820", as understood by the Baroda Government did not contemplate that the British Government was to interfere *in any manner* in the internal management of the said Mahals."<sup>1</sup> The Baroda Government had reasons to believe this.

Latter in 1823<sup>2</sup>, a political Agency was established by the Government of Bombay for the exercise of the power delegated to

1. H. P. O. File No. 341/61.

2. H. P. O. File No. 279/35.

them by Baroda Government. One of the consequences of its establishment was that the Resident at Baroda ceased to exercise direct supervision over the political affairs of the province, and the Political Agent began to take cognisance of all disputes between the Khalsa possessions of Baroda Government and the neighbouring Talookdars of Kathiawar. This was a serious matter for the State, as they thought that the arrangement of 1820 never contemplated this. "Not only this, but that officer, over-looking the fact that His Highness' Government were enjoying full sovereign rights in their own territories, began to entertain complaints from their subjects, such as Kathi Girasias and other proprietors residing therein, in the same manner as he was doing with respect to similar subjects of the chieftains of Kathiawar." The Baroda Government complained to the Residency. It further stated, "The chieftains, however, had bound themselves in security Bonds passed in the name of His Highness' Government not to commit aggressions against their subjects. It was this which gave jurisdiction to the Political Officer against them. There was nothing of the kind so far as Baroda Mahals were concerned." The Political officers overlooked this distinction. The Baroda Government having objected to the interposition of the Political Agent, the question was referred to the the Court of Directors whose injunctions were "not to interfere with His Highness the Geakwad's jurisdiction."<sup>1</sup>

In spite of these authoritative injunctions from the highest authority, it appeared that the Political Agent continued to take cognisance of the complaints from the Kathi proprietors, though Baroda Government repeatedly refused to recognise his right to intercede on their behalf, as could be seen from the Darbar despatches on this question. The dispute lasted for a number of years, till in A.D. 1856, the Resident, who was then under the orders of the Government of India took measures to check the aforesaid tendency on the part of the Political Agent to intervene in the internal affairs of the aforesaid districts. We may not here refer to the proximate causes of the controversy. Suffice it to say that as a result of the correspondence which ensued it was decided in

1. Melvill's Printed Memorandum on Giras rights held in Baroda Territory p. 77.

1861, with the approval of the Government of Bombay, to place the political supervision over the Amreli Mahals in the hands of two British officers subordinate to the Resident at Baroda. One such Officer was to stay at Amreli and the other at Okhamandal. As regards the duties of the new Assistant Resident at Amreli, the Resident wrote :<sup>1</sup>

"Major Anderson, the Assistant Resident at Amreli Mahals, will not meddle in the civil or criminal or any kind of jurisdiction of the district in any way, but he will be the person through whom alone any communications will pass between the Political Agent, Rajkot and your Manager and he will attend to the disputes between the Talukdars and the Amreli Mahals. "

It seems that though the Resident conveyed the above assurance to Baroda Government, he had a month *previously* issued other instructions to his Assistant.<sup>2</sup>

"In all matters concerning the Kathies and other Girasias, you will take a more prominent part. You will carefully enquire into their complaints, both of the administration and of each other and afford them redress."

These two types of instructions were of contradictory nature and the discrepancy particularly was that the latter instruction should have been cancelled when the subsequent *yad* of 5th April 1861 to the State was issued. This created a very anomalous position, detrimental to the State interest. However, the previous instructions of taking a 'prominent part' remained uncanceled, and as such the Assistant Resident took cognisance of the complaints of the Kathis and other Girasias. When Baroda Government came to know of this, they, as well as their local officials took exception to the procedure, and declined to give effect to the decisions arrived at by that officer in respect of their complaint.

Matters remained in this condition till 1875. In that year, on a motion from his Assisat at Amreli, Col. Sir Richard Meade, the then Agent to the Governor General and Special Commissioner administering the Baroda State carefully studied all the corres-

1. Resident's Yadi No. 323 dated 5th April 1861, H.P.O. File No. 341/61.

2. H. P. O. File No. 341/61.

pondence on the subject and drew up a note.<sup>1</sup> Sir Richard came to the conclusion that the correspondence relating to the arrangement of 1861 did not empower his Assistant Resident at Amreli to deal with the cases of Girasias or to entertain complaints from them, and owing to the tie between the officials of the State and the Assistant Resident settlement of all claims of this class remained in abeyance. He further stated this state of things could not be suffered to continue for long.<sup>2</sup> Sir Madhavrao was asked to take interest in this matter personally and suggest what should be done in the matter as "condition of the Gaekwari Mahals in Kathiawar has been long, or it may be said, always one of lamentable misrule and however unwilling the British Government may have been to interfere in their internal affairs the necessity of securing the settlement of the Girasias and other predatory classes has compelled it to do so in them as in all parts of the peninsula in view to the suppression of brigandage and outlawry and the maintenance of peace and order. Such power in absence of any special guarantee on the part of superior power and in such exceptional circumstances is to be derived by in the interest of the District."<sup>3</sup> Sir Richard's force of the argument and the validity of the representation of actual facts was such that even Sir Madhavrao had to admit his weaker position.<sup>4</sup> He wrote to say the special attention was being given to the subject. Two responsible officers had been entrusted with the work and Assistant Resident was requested to extend as much help by co-operation, advice and sympathy to these officers without allowing to let appear the want of accord between him and the local officers of the states. The Dewan emphasised this point. The two responsible officers were the District Judge at Amreli, and associated with him as a Joint Judge, was another officer possessing local knowledge, for deciding the cases. Thus a new Special Girasia Court was established.

Sir R. Meade, being satisfied with the above arrangement, caused instructions to be issued to his Assistant at Amreli not to interfere in future in the matter and complaints of the Girasias unless he was

1. Meade's Note dated 7th August 1875 as enclosed in his letter to Baroda Government of 9th August 1875 H. P. O. File No. 279/40 'Amreli Girasias'.
2. *Ibid.*
3. *Ibid.*
4. *Ibid.*

requested by the local authorities or authorised by his office to do so. The Assistant Resident also was to impress upon the Girasias of making use of the local remedies<sup>1</sup>.

However, this state of affairs could not last for long. A couple of months after this, the Assistant Resident reported to the new Resident P. S. Melvilldemi officially that some 20 Girasias waited on him and represented that they were not willing to submit their cases to the new Girasia Court, because

- (1) they had no faith in the constitution of the said Court in the event of their having any claims against His Highness' Government.
- (2) there was no appeal from the decision of the said Court, and
- (3) that fees were to be charged to them.

On this motion the Resident wrote to the Dewan. He felt, firstly, that appeal should lie with the Baroda High Court and secondly the question of remitting the stamp fees should also be decided<sup>2</sup>. The Dewan readily agreed to these suggestions. Later on, Baroda Government began feeling the pinch. They thought these concessions given to Mulgirasias were first of all voluntary and secondly arrangements were introduced during the minority administration and had outlived its utility. The agreement was, therefore, revocable<sup>3</sup>. This the British Government would not concede and finally the Government of India virtually made the A.G.G. to be the final judge in all giras matters.<sup>4</sup> The case of Mulgirasias of Sarakhadi village proved this beyond doubt.<sup>5</sup> However, undaunted Baroda Government persisted in claiming their rights and justice for their cause and the correspondence was continued. Matters lingered on for years. At last Baroda Government came out to be victorious and after nearly fifty years the Government of India agreed to cease from interfering in the case and agreed to abolish the post of the Assistant Resident.

1. Meade to Asst. at Amreli 6th Nov. 1875 H. P. O. File No. 341/61.

2. *Ibid*, Resident to Dewan 3rd March 1876.

3. H. P. O. File No. 341/61

4. H. P. O. File 279/28, see Printed memo, p. 26.

5. *Ibid* see part I.

Still one important facet of this question of Mulgirasia remains to be noted. This relates to the proposed purchase by Baroda Government of lands of the Mulgirasias to relieve their indebtedness.

After the severe famine of 1900, in Gujarat and Kathiawar which was a great natural calamity to the agriculturist and which he innocently interpreted as a wrath of the God due to his misdeeds, the condition of the Mulgirassias in Amreli became very poor. Many of them were starving without any resources to carry on their livelihood. With a view to afford them relief, Baroda Government issued instructions to advance them money on the security of their Giras lands and also to purchase such lands as they were willing to sell. The Residency took exception to the course and the question was referred to the Government of India, who stated that the most satisfactory solution would be found in the introduction of rules similar to the Encumbered Estates Rules as in force in Kathiawar. In a reply the Gaekwad Government explained that the Encumbered Estates Rules in Kathiawar were in the nature of insolvency legislation, and the introduction of such a measure would cause much dissatisfaction and would require the maintenance of a permanent establishment, and that such rules could only be applied in the case of big estates only, which was not the case with regard to these Girasias.<sup>1</sup> Baroda Government also objected to any special legislation for these Girasias. Nevertheless subsequently, Baroda Government did pass the Encumbered Estates Act for general application, and the Residency was informed that some of the Mulgirasias would fall within the scope of the Act. It also began preparing Alienation registers and informed the Residency that the preparation of the Alienation registers and the working of the Encumbered Estates Act, would disclose the heavy indebtedness of the Mulgirasias. Under these circumstances Baroda Government pressed for the reconsideration of the original scheme to purchase the lands of such of them as were willing to sell them. The Government of India hesitated<sup>2</sup>, but the truth of the case and its bonafides were beyond any doubt even for the British Government. With more enlightened and correct appreciation of the facts about the Mulgirasias along with British

1. From one of the Notes dated 15-9-1912.

2. *Ibid.*



Government's gradual withdrawal from deeper interference from day to day administration and later on in accordance with its declared intention that they would no more meddle in the question of Mulgirasias in particular after the First World War the question was automatically solved.

### (B). Postal and Telegraph Establishments

In 1863, when the Baroda Government consented to the British Indian Postal Department opening Post offices in Baroda territory, they stipulated among other conditions that the correspondence on the service of the State should be conveyed free of charge<sup>1</sup>. The procedure giving effect to the arrangement was that the correspondence at the Baroda was to be handed over to the Resident for being franked for free conveyance while the District officers affixed postage stamps on their correspondence and a refund of the amount spent on postage was obtained by submitting statements every month to the Residency. This arrangement continued more or less till 1872, but thereafter it remained in abeyance till 1909. In 1873<sup>2</sup>, to the surprise of Baroda Government arrangement that had existed was set aside by the Government of India without giving any reason.

In 1907, the Maharaja Gaekwad wrote personal letters to the Viceroy and the Secretary of State enclosing notes on certain matters in which the Treaty Rights of the State were adversely affected. One of the notes related to the Postal arrangement and in this a request was made that the original understanding of 1863 that the State correspondence should be conveyed by the British Postal Department free of expense should be given effect to by the supply of British service stamps free or in any other manner as may be found practicable<sup>3</sup>.

An official representation was also made to the Government

1. *Vide* Baroda Government's Yadi No. 337 dated 22nd March 1863; Residency Yadi No. 322 dated 2 March 1863; and No. 516 dated 11th May 1863 and also subsequent correspondence, H. P. O. Selection 'Postal Arrangements' Pp. 285-286.

2. *Ibid* see part IV;

3. H. P. O. Note on Postal arrangements, Printed papers.

of India.<sup>1</sup> On this the British Government informed the Baroda Government that a grant of the service stamps of the value of Rs. 6000 equal to cost of free conveyance of 10 tolas of correspondence from every post office of the State would be made to them. This step was taken by the Government of India after two years in 1909.<sup>2</sup> Afterwards, however, on further consideration of the representation they informed the Baroda Government that they had decided in future to make a free grant of service postage stamps of the value of Rs. 36,000 a year; that the grant was based on the average annual quantity of service stamps purchased by the Baroda Government during the preceding 10 years and that its amount would be subject to revision after five years. In 1914, *i.e.* after 5 years, this grant was increased to Rs. 40,000 a year<sup>3</sup> the average expenditure of the preceeding 5 years on the correspondence of the State, and it was stated that this also would be revised after 5 years. Again in 1919, the grant was increased to Rs 85,000<sup>4</sup> a year, and it was stated that it would be reduced if the postage rates were reduced.

The British policy in this matter was generally based firstly, on consideration of securing unity in such an important branch of communication and also efficiency. Secondly, economic considerations also appear to be of great importance. Lastly, Imperial considerations outweighed all other considerations. The only concession made to the Baroda Government was that its jurisdiction over Postal employees in accordance with Indian Post Office Act was recognised.<sup>5</sup>

The Darbar also demanded the following independent jurisdiction in this matter presumably on the ground that it was one of the first class States and was bound to the British Government through treaties and engagements. They observed :

“The Baroda Government, consider that they should be allowed to have a Postal convention with the British

1. H. P. O. Selections 'Postal arrangement' page 11. The Dewan to the Resident, dt. 25th Nov, 1907.
2. *Ibid.* p. 13-14.
3. *Ibid.* p. 24.
4. *Ibid.* p. 45.
5. *Ibid.* p. 45.

Government under which they should work the Postal system in their territories. So long as the present arrangements continue all postal revenues accruing in the State including profits from Saving Bank operations should be handed over to them after deducting the expenses of working."

### Telegraphs

There was no separate understanding with Baroda regarding the free conveyance of Telegrams but it was all along understood that the same arrangements as in postal matters applied to the construction of lines of telegraphs and opening of telegraph offices, for the transmission of public and private messages in Baroda State. Previous permission for the construction of lines and opening of telegraph offices was obtained from the Baroda Government.

In 1885, the Government of India raised the question of making the Indian Telegraph Act applicable to Telegraph lines in the State including those on the Railways owned by the State. The Baroda Government offered to pass their own Telegraph Act on the lines of the British Indian Act. The Government of India, however, stated that their policy was to secure control over the whole telegraph system both in British India and the Indian States. The Baroda Government thereupon made the British Indian Telegraph Act applicable to Baroda territory including the provision that the authority to establish telegraphs vested in the Governor General-in-Council.<sup>1</sup> Matters stood here when in 1918, the Director General of Post and Telegraphs informed the Baroda Government that the Government of India had extended to all Indian States which had been authorised to use service postage stamps, the privilege of using such stamps in payment of telegraph charges or customs fees and had arranged to allow Indian States which received free grants to purchase such stamps at face value when required over and above their free grant.<sup>2</sup> In 1919, therefore, when proposing a revision, the Baroda Government requested that the free grant should include also a sufficient amount to cover charges on telegrams on the service of the State. In view of the similarity in arrangements between Postal and Telegraph offices, the Baroda Residency was prepared to

1. H. P. O. Telegraph Selection Part I, p. 89.

2. H. P. O. Telegraph Selection Part I pp. 43, 44, 47.

support this request but the question of addition to the grant for Telegrams was not considered then as the Baroda Government had stated that they wanted to acquire ownership of and manage the Telegraph lines in the State.<sup>1</sup> Meanwhile, Baroda Government submitted an estimate of the cost of conveying telegrams on the business of the State free. The matter was, however, not pursued as Baroda Government found that the grant of Rs. 85,000 was sufficient to cover expenditure on telegrams on the service of the State.

### B. Jurisdiction or Authority in Matters of Interstatal Relations

#### (a) Baroda's case of "Sovereignty" over its Tributaries.

If one cares to cast a glance at the petitions, representations, accounts of disputes regarding tribute and controversies raging over succession, nazranahs and the lengthy correspondence covering number of years between the State on one hand and Residency, Bombay Government and the Government of India on the other, one will be struck by one singular fact that the only thesis propounded by the State is that it was Sovereign over the States and Estates in the Kathiawar, Banaskantha, Mahikantha and Rewakantha agencies and that it had unceasing claim for the restoration of this Sovereignty. Baroda Government based its claim on its acknowledged position in respect of these territories and on the nature and scope of the administrative arrangements made particularly between 1820 and 1825 with the express object of promoting peace and tranquility in the said districts.

In the middle of the 18th century, after the Maratha conquest of Gujarat, the authority in the tributary portion of the province was divided equally or nearly equally between the Peshwa and the Gaekwad Governments. The former Government found it expensive to manage their tributary districts in the Kathiawar and soon afterwards farmed them to the Baroda Government, in whom, therefore, the sole authority in tributary Gujarat came to be practically vested from a very early period. In the beginning of the 19th century, when

1. *Ibid.* (Vide Baroda Government's letters Nos. R. 1706 dated 11th February, 1920, 2716 dated 22nd June, 1920; and R. 2935 dated 13th July, 1920).

the Baroda and the British governments came to definite relationship with each other the latter, in order to secure the ascendancy of their ally and to establish the peace and good Government in the land, assisted in carrying out permanent settlements in respect of the tribute payable by the States and estates in Kathiawar and the Mahikatha. In making these settlements, there was no intention to interfere with rights either of the Sovereign Baroda Government or of its tributaries. The object was to eliminate an objectionable feature from the system of Mulukgiri which was the customary method of exercising sovereignty in these tracts. A change came in 1817, when the Peshwa ceded his share of Kathiawar Tribute for the maintenance of the subsidiary force. The British Government became desirous of acquiring the rights of the Baroda Government also ; but the latter declined to part with them. A compromise was, thereupon, arrived at by which the Baroda Government consented so far to fall in with the proposals of the Government of Bombay as to refrain from direct collection of tribute from their tributaries in the aforesaid province and in the Mahikantha, on the understanding that their rights in the territories of these tributaries would be preserved in tact. The change thus resulted in the transfer of the exercise of authority from the hands of the Baroda Government to the British Government without however affecting or impairing the authority itself of the former. In 1825, the arrangement was extended to Rewakantha.<sup>1</sup>

By these arrangements, the villages owned by petty proprietors, with which Gujarat was interspersed at the time of the dissolution of the Mughal Empire were divided into two classes : (1) Those to which the settlements of Walker, Ballantyne and Willoughby were applicable and (2) those to which no such settlements applied. A very large number of villages falling under the second category passed to the British Government by the cessions of the Peshwa and the Gaekwad by the treaties of 1802 and 1805. Dhandhuka, Ranpur, Gogo, Dholka formed what were known as the Talukdari villages. The early British authorities were in doubt as to whether these villages were subject to the Sovereignty of the Company's Government. Enquiries appear to have been instituted

1. This and the following information is drawn from the *Reply*.



and as a result the Sovereignty of that Government was as asserted over these villages in 1815. The relations between the holders of these villages and the British Government were then regulated by Act VI of 1888, and the villages were then in every respect a part of British territory. A smaller number of villages in the same category remained subject to the Baroda Government chief among them were the Ankadia villages of the Vijapur Taluka in North Gujarat.

It was to be perceived that there was no difference in the status of the estates which were settled by Walker and Ballantyne and Willoughby and those that had remained under the British and Baroda Governments. They belonged to the same original stock. *It was the guarantee given by these officers that constituted the difference. This guarantee was a process of perpetuation.* Baroda Government claimed that the obligations created under it were mutual. The proprietors had agreed to remain submissive to Baroda according to the custom of the country, *to behave like subjects* and to keep the peace and Baroda gave an assurance that their Jama would not be increased. The subjection and surrender of the right of private war were common to proprietors of villages of both the classes. The only difference was in regard to immunity from an increase in the Jama. To Baroda Government, the meaning of these engagements was thus very clear. They very firmly believed these engagements that merely prohibited them from sending their troops into the territories of their tributary Zamindars for the purpose of collecting the tribute without the consent of the British Government and from preferring any claims against these Zamindars except through the mediation of that Government. Also by the above arrangement, they did not surrender any right or cede any territory. Their sovereignty over these territories remained intact. The British Government did not desire to profit pecuniarily by these arrangements at first. They were only to exercise free of expense the sovereignty of the Baroda Government as fiduciary managers and in the name of that Government, and to hand over all dues and revenues collected from the tributaries on whatever account to the Baroda Government in virtue of such sovereignty.

In the Rewakantha owing to the greater degree of the subjection of the tributaries to the Baroda Government, direct dealings were permitted in many important matters, though, in case of difference



arising, the arbitration of the British Agent was to be invited.

For a number of years then, after these treaties the sovereignty continued to be exercised in the name of the Baroda Government and Security Bonds were taken from the tributaries in terms which showed that the sovereignty of the Baroda Government was recognised. But afterwards it seems that the real position was ignored. Consequently there was the accretion of usage which unauthorisedly grew up around the guarantee modifying to a large extent its meaning.

The constant complaint of the Baroda Government was that the British officers, who were charged with the duty of carrying out the arrangement put their own interpretation on the same. "Their default appeared to be that they acted as if the Baroda Government had either no rights in the tributary districts beyond Tribute or, if they had, had in due course of time surrendered them to the British Government, and went on to show how." In the first place they took under their management large tracts of territories to which the above settlements did not apply. The inclusion of the 57 estates of Mahikantha which once paid both Ghasdana and Jamabandi in the Mulukgiri territories could be cited as an instance in point. From a scrutiny of number of representations that the Baroda Government made on this subject eight instances frequently recur where according to them British Residents twisted the meaning of treaties and engagements :

1. By an engagement of 1813 Radhanpur State had to give an annual present of a horse and clothes to Baroda Ruler. This did not happen when political control over Radhanpur passed from Baroda into the hands of the British Government.<sup>1</sup>

2. In 1809, Palanpur State in accordance with the permanent settlement with the Gaekwad's Government agreed to pay Rs. 50,000/- as tribute in sicca currency. Due to ignorance of the Baroda officers this was paid in babashai rupees after four or five years only. Thus the State had to suffer a loss of Rs. 8000/- annually and the mistake could not or would not be rectified by the British Government<sup>2</sup>.

1. *Vide* the Representation of 1918.

2. H. P. O. File No. 116/48.

3. Baroda Government's claim to receive an increased Jama-bandī or land revenue from the villages of the Bavishi Circles in Mahikantha was not only negated by the British Resident but was accompanied with a broad hint that "advancement of such ancient claims possibly acted as a hindrance to due consideration being paid to more weighty representations."<sup>1</sup>

4. Similarly the Gaekwad's claim to an increased payments from the estate of Punadra in Mahikantha Agency according to the understanding of 1804 were also put aside.<sup>2</sup>

5. Col. Walker carried out the settlement of the Kathiawar Tribute in A. D. 1807-8, but he was not able then to fix the amount payable by the villages of the District of Babariawad as they were laying waste at that time.<sup>3</sup>

In the course of correspondence, it was agreed that tribute would be assessed on these villages by the Political Agent, as they regained prosperity. The understanding was given effect to by Capt. Barnwall in respect of certain villages newly populated subsequent to Col. Walker's Settlement. Baroda Government afterwards learnt that 13 more estates had since been populated on which the tribute remained to be imposed, and though a claim was advanced by them on that behalf in 1896 it had not been complied with.<sup>4</sup> The grounds advanced by the British Government were 'that with respect to six of them it was time-barred, and the tribute on the remaining seven was included in Capt. Jacob's Settlement of 1846<sup>5</sup>.

1. H. P. O. Files Nos. 116/43; 116/44.

2. *Ibid.* No. 116/83, "Punadra case".

3. H.P.O. Files Nos. 116/41 ; 116/42 Minister's letter No. 3026 dt. 21st July 1920. Vide Residency Yad No. 114 dt. 27-6-1823.

4. The Government of Bombay held that Col. Walker's Settlement was permanent ; that no modifications could be allowed therein ; that Capt. Barnwall's action had no sanction from them ; that they would be perfectly justified in disallowing the enhancement made by him and Vithal Rao, and that it was never contemplated that, with the increase of prosperity in the district brought about by the British Administration, Baroda Government should be allowed to benefit.

5. The claim was advanced as tribute was allowed by Capt. Barnwall on certain other newly populated villages in the same district subsequent to Col. Walker's settlement and the right of Baroda Government was thus recognised.

6. In accordance with the wishes of the Bombay Government, Baroda State too created a fund in 1825 to encourage Jadeja Rajputs to stay away from killing their female infants. The money was appropriated by the British Government from Baroda's account. In 1900 the British Government discontinued their fund, but continued to appropriate from Baroda account the share of the State on that heading. When they brought this to the notice of the British Government, it advanced various arguments not to the satisfaction of Baroda. Thereafter on the advice of the Resident, Baroda withdrew its protests.<sup>1</sup>

7. The Government of Bombay having refused exemption from the levy of customs duty of Viramgam on articles intended for the personal use of the Minister, it was pointed out by Baroda Government that under articles 8 of the Definitive Treaty of 1805, such articles were exempted from payment of customs duty, and a request was made that in the event of the Government of Bombay not modifying their views in consideration of this fact, the question might be referred to the Government of India for orders. The Government of Bombay declined to reconsider their orders or to refer the question to the Government of India on the ground that it was decided so far back as 1861, by the Government of India that the said article did not provide for exemption from duty of goods on entering British India, but only for exemption from duty of goods which had already entered British India when they passed on to Baroda territory.<sup>2</sup>

8. Baroda Government also complained that their right with regard to settlement of disputed successions and levy of succession nazaranahs under 1820-25 engagements from Mehwasi zamindars in Rewakantha and from other tributaries were also not respected by the British Government.<sup>3</sup>

In all these instances, it appeared that the tendency of decisions arrived at by British officers was that if the Baroda Government had any right in these territories other than the right to receive tribute,

1. H. P. O. File No. 116/36.

2. H. P. O. from a note dated 15-9-1912.

3. H. P. O. Nazrana Selections Part I & II.

they must be considered to have been either permanently ceded to the British Government or extinguished, and therefore, so long as the full amount of tribute fixed by the settlements of 1808 and 1812 was paid to them, they had no concern as to how the management of the tributary districts was carried on.<sup>1</sup> Such an attitude was the direct outcome of the policy hitherto pursued by the British Government in regulating their relations with the Indian States,<sup>2</sup> upto the period of Montford reforms. In 1918, the Dewan Manubhai Mehta addressed a detailed representation on these subjects to the Government of India, urging them to review in changed circumstances,<sup>3</sup>

- (1) What were the rights enjoyed by the Baroda Government in the tributary district prior to 1820 and 1825 respectively? The rights which British Government did not accept without qualifications?
- (2) How were these rights affected by the arrangements of 1820-25?
- (3) Were these arrangements meant to be permanent as claimed by certain responsible British Officers?
- (4) If not what re-adjustments, if any, should be made in view of the altered circumstances?

On the first issue the Dewan felt that much confusion was created by sentiments expressed by Col. Walker at different periods in his dealings with Gaekwad's and thereby affairs of Gujarat. In the beginning Walker felt that the tributary zamindars as proprietors of soil were entirely independent of the central authority in the limits of their estates so long as they paid tribute due to that authority. This phenomenon was in reality the result of the existence of vigorous self-government in various parts of the country. Col. Walker himself came to modify his views later on when he was busy settling Kathiawar tribute. He then had acknowledged general dependence of Kathiawar tributaries on the Gaekwad Government.

1. Vide Residency Yadi No. 1875 dated 12th Sept. 1870.

2. H. P. O. File No 341/46, Pp. 143-44.

3. From a correspondence regarding revision of political arrangements by Sir Manubhai Mehta. p. 44. The following account has been based on this able document.

But the impression created by Col. Walker's report about the absence of power of the superior Government to interfere in the affairs of tributaries seems to have lingered on for a time in the minds of the British Officers. The result was that, after the transfer of control of Kathiawar and the Manikantha to them in 1820, the above impression prevented them from making adequate arrangements for the performance of the duty of preserving the peace, and the provinces began to lapse into anarchy.

On the second issue Baroda representation maintained its acknowledged position. It was under no doubt that permanent cession was not at all contemplated. It brought to the notice of the British Government that

(1) it was on record that as soon as the Peshwa ceded his rights in Kathiawar to the British Government that Government expressed a desire that the Baroda Government should also cede their rights in that province for the maintenance of an additional subsidiary force, and

(2) that their refusal to do so and the acceptance by the Resident of their proposal to cede other revenues instead caused disappointment to the Government of Bombay.<sup>1</sup>

(3) the latter were, however, anxious to have the sole authority in their hands in Kathiawar. In support of the third point, Bombay Government's letter to the Acting Resident at Baroda from Wallace's work was cited.<sup>2</sup>

To the Dewan's mind the third issue was the most important of all. He pointed out that the object underlying the arrangements of 1820 and 1825 was promotion of peace. "There was no intention" he continued "of impairing or minimising any rights of the succeeding Gaekwads in perpetuity thereby."<sup>3</sup> Moreover, it was maintained that the arrangement was not permanent either by nature or by wording.<sup>4</sup> Looking to the stand by the Baroda Govern-

1. Bombay Gazetteer Vol. VII, Page 277, as quoted in the *Representation*.

2. Wallace Page 255, as quoted by the Dewan in the *Representation*.

3. *Representation*.

4. *Ibid*.



ment *vis a vis* that of the British Government, it appears that the latter's stand was vindicated by the well known British jurist of that period Sir William Lee-Warner.<sup>1</sup> His views on the intentions and effect of the settlements made in 1818 and 1820 in Central India and Gujarat could be summarised thus :

In 1813 the British Government abandoned the policy of the Ringfence and adopted the one known as that Subordinate Isolation of the Indian States, that the settlements of 1818 in Central India and of 1820 and 1825 in Gujarat were undertaken in pursuance of the above policy ; and that the effect of these settlements was that the position of the Maratha Sovereign States underwent a material and substantial change in relation to their tributaries and feudatories, in virtue of which these latter were exalted into Chiefs in subordinate alliance with the Government of India.

The Dewan emphatically disputed Sir William's views. In fact, so great was the weight attached to the opinion of Sir William Lee-Warner in matters relating to the Indian States in those days that even an incorrect statement made by him was likely to pass as an accepted tenet of the Indian Political Practice. In writing about the said settlements, Sir William had obviously drawn an incorrect conclusion about their intention from the apparent state of things at the time of writing nearly a century after the actual event. It was an attempt to twist facts into conformity with cherished theories. The foregoing should make it clear to any one that the state of things was due to unauthorised practice that had grown up in giving effect to these settlements. Sir William's view that it was the intention of the settlements of 1818 and 1820 to raise the status of the petty Chiefs concerned to that of rulers of States in subordinate alliance with the British Government had been declared by the Government of India in the Gwalior rendition case (1818) to have been untenable as regards one class of Chiefs comprehended in the Central India Settlement. In regard to the other Central India Class, the interference of the superior Maratha States had been expressly prohibited by the terms of the agreement mediated with them. In their case, such non-interference was the essence of the guarantee, and besides, the tributary rights had been permanently

1. Lee Warner, Pp. 114-19.



ceded to the British Government. Sir William Lee-Warner's mistake was due to the circumstance that in writing about the bearing of the policy of subordinate isolation and illustrating it by reference to the Central India and Gujarat cases, he was not quoting the view given in any State document, but was endeavouring as a historian to take a broad view of the events which had happened a long time ago. The documents quoted by him in relation to the Baroda Case did not support him and might easily be turned against him. For instance, there was no reference in the instrument of 3rd April 1820 to the exaltation of the status of the tributaries.<sup>1</sup>

At one stage in 1825, the British authorities doubted whether they had derived from the Baroda Government any effective authority to preserve the peace in the peninsula of Kathiawar. The inquiry that was instituted dispelled their doubts. The said enquiry related the "General rights of the British and Gaekwad's governments over the Chiefs of Kathiawar". If in 1824, the sovereignty of the Baroda was extinct where was the necessity of ascertaining the "General rights of the Gaekwad" it may be asked. If it was only because he was a former Sovereign, why was the name of the Peshwa omitted and that of the British Government substituted, it may be further inquired. The reason was that in 1825, Elphinstone was still Governor of Bombay. He knew that the sovereignty of the Baroda State in part of Kathiawar still inhered. If Elphinstone's successors mistook the position and acted on such a mistake, it could be said that if the British authorities acted on a supposed right they did not thereby make it a real one. This view had been approved in the Gwalior case.

But again, it was doubtful whether Elphinstone's successors could really be said to have acted on the supposition that the Gaekwad Sarkar's rights had been extinguished. Elphinstone did not provide for expenses of management, because he was under the impression that till then it had cost nothing. He, however, contemplated that in minor cases of default in payment of tribute the Baroda troops should be employed.<sup>2</sup> Elphinstone's impression about the management costing nothing, however, proved to be incorrect and

1. A. T. Vol. VI Ed. 5, Pp. 360-61.

2. Elphinstone's Minute dated 18th April 1820, as quoted by Wallace. Pp. 280, See Para 23.

the practice grew up of holding the Baroda troops at all times available for these and other duties in the provinces and the fact had been that the prohibition to send troops into the lands of the Zamindars had been a dead letter, and ever since 1820 the peace of tributary Gujarat and Baroda portion of the tributary Kathiawar had ordinarily been maintained by men of the Baroda Contingent and, after 1885, by men of the police force paid by Baroda. The employment of these men really kept up the remembrance that the rights of the Baroda Government still existed, that they paid for the cost of the administration of the provinces because they received tribute from them, and that according to the custom of the country, the tribute was an insignium of their sovereignty and was attended with the obligation to preserve peace. Sir William Lee Warner in his zeal for his theories apparently overlooked this important fact.

Another reason had vitiated the conclusions of Sir William Lee Warner relating to the Baroda arrangement. In his attempt to develop the theory that every spring of action of the Earl of Moira's Governor Generalship was traceable to the policy of subordinate isolation, he had seen analogies and similarities where none existed. He had been led into the error of supposing that there was a parallel between the state of things existing about 1818 in Central India and in Gujarat. He had taken no note of the fact that while the former province was ablaze with the Pindari conflagration, the tranquility which reigned in Gujarat enabled both British and Baroda Governments to send a large number of troops to take part in the measures taken in Central India; that while in Central India, the former proprietors of the soil had been wholly dispossessed of their lands, in Gujarat they had been confirmed in their possession under the guarantee of the Company. Owing to this failure to appreciate the difference between the Central India and Gujarat Settlements, he had been led into giving a very inaccurate account of the Mulukgiri system prevailing in Gujarat and of the reasons which necessitated Col. Walker's Settlements. His account was in direct contrast with that given by Col. Walker himself, viz. that the Mulukgiri was no new system brought into vogue in Gujarat by the Gaekwad Government, but had been the customary method of exercising sovereignty for centuries together; that the necessity for the use of force for the recovery of the dues of the State, which were described as just, arose from the sentiment which made it a point of honour with the tribu-

taries not to pay unless compelled to do so; that in case of resistance, the exactions of the Mulukgiri army were directed against property only and never against persons; and that the Mulukgiri was subject to certain fixed rules, the chief of which was that all private wars ceased automatically as soon as the Mulukgiri army entered the province and that the happiest time the Chiefs enjoyed was when the army was on its usual circuit; that the settlement was carried out mainly with the object of relieving the British Government from any inconvenient stipulation in the treaty; that instead of the chiefs making piteous appeal to the British Government, the latter had to depute agents to ascertain whether the Chiefs would be willing to make a settlement. In short giving currency to altogether unfounded notions about the Mulukgiri system and by drawing a parallel from the Central India case, writers like Sir William Lee Warner have unjustly prejudiced the case like one under consideration.

Against this background the first thing that the Baroda Government demanded was the revision of the arrangements of 1820 and 1825 which it thought were no longer necessary in the altered circumstances.<sup>1</sup> The settlements of 1808, 1812 and 1825 in their opinion constituted a bilateral guarantee. While they guaranteed to the tributaries the secure enjoyment of their rights, they equally guaranteed to the Sovereign State of Baroda that such enjoyment by the tributaries should be in subordination to the Baroda Sarkar. The existing arrangements that had continued to exist constituted a temporary infringement of the guarantee given to the Baroda Government, and it was only asked that this violation should not be allowed to continue any longer.<sup>2</sup> Baroda Government's proposals for the revision of political arrangements in Kathiawar, Mahikantha, Rewakantha and Palanpur Agencies were framed on these lines.<sup>3</sup> The foregoing also made it clear that before the coming of the British on the scene of Kathiawar and Gujarat the Gaekwad was an accepted sovereign ruler, the sovereignty which was wrested from the conquest of enfeebled Mughals, and the events that followed from the friendship

1. From the correspondence regarding revision of political arrangements in Gujarat and Kathiawar. Pp. 88-89.

2. *Ibid.*

3. *Ibid.*

with the British were the result of the policy of the superior power of British directed with political acumen and expediency and which gave the appearance later on that this sovereignty was a political fiction of the past which did not have any legal origin. However, with the change of the policy of the British Government resulting out of the proposals of Montague Chelmsford the Baroda Government pounced upon the opportunity given, as one of the important features of the Indian Reforms was the provision for premier Indian Native States to have direct dealings with the Government of India. Hence the demands advanced by Baroda Government were in proper atmosphere ; though it did fear that 'vested interests' might try to oppose their bonafide proposals. That is why perhaps we see them appealing to the sense of justice and equity.

#### Problems Arising out of Tribute

In their relations with the tributaries, it was a matter of common knowledge that Baroda Government was guided by the various settlements effected by political officers of the British Government. It was a form of mediation between the Chiefs of States and Estates on the one hand and Baroda Government on the other. After the transfer of control over this tributary territory the relations were regulated not strictly in conformity with the terms of the arrangements. In controlling this relation between Baroda Government and the Chiefs and zamindars of Gujarat and Kathiawar here also a 'usage' had grown up according to Baroda Government's point of view this was not warranted by the intentions and spirit of the treaty engagements which prejudicially affected the interests, prestige and dignity.

Primarily, the questions regarding the Tribute fell under five different heads :

1. Remission of the Tribute.
2. Suspension of the Tribute.
3. Reduction in the Tribute.
4. Interest on the Tribute and finally
5. Tribute on newly populated villages.

Of the above five, the fifth one has been dealt with wherein two prominent illustrations of Barbariawad and Punadra

villages have been cited.<sup>1</sup> The remaining four therefore, need some explanation.

One of these four and the most important was the question regarding remission of tribute which was of a recurring character and had the unsettling effect on the already fixed tribute engagements, but its chief mischief was to be found laid in its becoming 'permanent tendency' of the tribute payers demanding remission on trifling grounds and British Political Agents backing these demands. Long correspondence that took place between the two Governments fill volumes in the State Archives.

To recapitulate the main features<sup>2</sup> of history of Baroda in Gujarat and Kathiawar in short.

Till the beginning of the last century, Baroda Government used to realise their tribute from the chieftains, Mehwasi Thakores and petty Zamindars of Kathiawar and Gujarat by sending into these provinces periodical expeditions called the "Mulukgiri".

It was a historical fact that the Gaekwad Government exercised the powers of suzerainty over the half of Gujarat in its own right and over the remaining half in its capacity of Revenue Farmers of the Peshwa. The Peshwa's rights were ceded by the Baroda Government to the East India Company.

As regards the rights of the Baroda State, the tribute payable to it by the Chiefs and Zamindars of Kathiawar and Mahikantha was permanently fixed by Cols. Alexander Walker and Ballantyne in 1807-8 and 1811-12 respectively. The tribute thus fixed used to be collected by the officers of the State till 1820. This practice was, however, discontinued on the British Government engaging on 3rd April 1820 to procure payment of the tribute free of expense to the Baroda Government and agreeably to the terms of the settlement of the Kathiawar tribute made in the 1808 and of the Mahikantha in 1812. Ever since this arrangement the tribute from Kathiawar, Mahi-

1. *Infra* p. 67.

2. H. P. O. File No. 166/43. *Infra* p. 63.



kantha, Rewakantha and Palanpur was collected and paid over to the Baroda Government by the British Political Officers concerned.<sup>1</sup>

### 1. Remission of Tribute.

However, in the concluding Parwanah granted by the Gaekwad Government to the tributaries of Kathiawar, confirming the above settlement, a provision existed that whenever, owing to natural causes such as "Asmani Sultani" i. e. misfortune occasioned either by God or King (i.e. a misfortune caused by a visitation from heaven a-vis-major, or occasioned by devastation caused by a ruler) a dire calamity in any year befell the country, the tributaries would be given such relief as would enable them to tide over the difficulties of the year.<sup>2</sup> The method followed was that claims were to be preferred by the Chiefs and Thakores for a remission in the tribute, joint inquiries were usually made by an officer of the Political Agency and one deputed by Baroda Government as to whether any loss in crops was really caused to the applicants, and if so, to what extent. After the receipt of their report and after hearing what Baroda Government had to urge the claims of the tributaries were disposed of by the Government of Bombay. In 1899, however, the Bombay Government did not allow Baroda Government to depute an officer on their behalf in the enquiry. The British Government held that they had the right to decide, without the reference to Baroda Government, in what cases remission was necessary and what its amount should be.<sup>3</sup>

The Baroda Government represented that the tributaries were entitled to remission in the above mentioned circumstances but that did not mean that in all cases, remissions in tribute would be granted. But the clause was then interpreted almost invariably as if remissions were the form of relief intended. Moreover, in the Settlement of Mahikantha tribute no specific provision for granting relief existed. But owing to pressure from the British

1. *Ibid.* For further details also see H. P. O. Tribute and allied matter Vol. I p. VII

2. *Ibid.* p. XII

3. *Ibid.* Pp. XIV-XV



authorities Maharaja Sayajirao II agreed in 1840<sup>1</sup>, that in years of a dire calamity remissions might be granted "*in consultation with both Governments.*" A similar arrangement with regard to the Rawakantha tribute was made in the year 1825<sup>2</sup>. No procedure was laid down in the treaty engagements for the grant of remissions. In spite of the exhaustive representation submitted in the matter by Baroda Government, the Government of India declined to make any alternation in the procedure adopted in 1899<sup>3</sup>. They only conveyed a formal assurance that Baroda Government would be informed before hand of the recommendations made with the reasons therefor, so far as the occasion permitted; and that the view of Baroda Government if presented within a reasonable limit of time would be considered before orders were passed.

#### Line of Arguments by Baroda Government.

The precise line of argument followed by the Baroda Government with regard to remission of tribute was laid down first of all by Raja Sir T. Madhav Rao the then Dewan in 1876 when the Jam of Nawanagar applied for the remission of tribute.<sup>4</sup>

He said, the payments of the kind were all settled,—settled in perpetuity, upwards of 60 years ago, that attempts to obtain remissions, were a tendency to unsettle the past permanent settlement, that the payments had remained the same, while the resources out of which they were paid have very greatly increased, that attempts might be naturally made by the paying States even in this highly favourable circumstances (favourable to *them*) to get the further advantages by asking for remissions, but such attempts should not be encouraged, as one precedent would inevitably lead to another, and there will always be good natured political officers in Kathiawar and other neighbouring territory willing to oblige States under their superintendence by supporting such applications, that the effect of all these could not but be to unsettle the permanent settlement

1. H. P. O. Tribute and allied matter Vol. I p. X

2. *Ibid.* p. 119

3. *Ibid.* p. 146.

4. Dewan to Resident, 28th March 1876. Nawanagar Remissions Residency File No. 425

made in the early part of the century, that undue hopes of advantage might be excited in the minds of the Chiefs who paid tribute to Baroda State ; that they would go on asking for more and more, for, nothing was lost by asking, when all that was asked was not conceded (and it was seldom that all that was asked was conceded or could be granted) discontent would follow and that discontent might assume a more active form against the interests of Baroda State. With all these, crimes and depredations in Baroda territory from outside might increase and other complications ensue.

The Dewan desired, as much as possible, to abstain from unpleasant discussions with Political Officers, with whom he wished to stand on the best of terms. But he feared when, for instance the declined State to accede to the recommendations or wishes of Peile, the then Political Agent, Kathiawar, through whom the Jam had applied, he could not certainly be pleased. The State might thus have to incur the displeasure of successive Political Officers upon whose goodwill it had to depend in many boundary and other cases. Moreover, the Dewan pointed out that a single unfavourable remark escaping a Political Officer in Kathiawar might however unintentionally, cause some of the rude chiefs and races in Kathiawar to do mischief in Baroda territories.

He, therefore, thought that it would be a good policy in the long run, to shut out *all agitation* by strictly adhering to the permanent settlement, made by the intervention of the British Government. This would put all minds in a settled state, and payments would be made without devoting a thought to the same, and things would go on quite smoothly. The Dewan cited his own experience in Travancore, where he had served before and where his policy paid good dividends.

Following this line of argument the Baroda Government further stated in 1899 when the usual practice of allowing Baroda Government to participate in the enquiry was stopped that "it seems to be fair that the party most interested in the question should have a share alike in the investigation of the claim and in the determination of the extent to which such claims should be allowed. When the Baroda State is not allowed to join in the enquiry, the impression is created amongst the tribute payers that a one sided enquiry will be held, and that claims put forth even on light grounds will be conceded. That this is not an imaginary fear, is proved by

certain cases where the joint enquiry actually led to the withdrawal of claims by tribute payers."<sup>1</sup>

Regarding the proportion of remission, the Baroda representation demanded that "it should be fixed on certain intelligible and and reasonable principles after consultation with Baroda Government and should not be fixed exclusively by the British Government. Both sides should know when remission can be granted and to what extent. If these matters were settled beforehand, there would be left no ground for complaint. Baroda Government had repeatedly asked for such principles being definitely laid down."<sup>2</sup>

The ground for the above complaint was that remissions were usually granted by the British Government on the principle that the loss in the present day normal revenue of the tributaries should be shared proportionately between the tribute payer and the tribute receiver. Sometimes remissions were also granted on the score of indebtedness of the tributaries concerned. What left Baroda Government bitter was that in all cases remissions granted by British Political Officers were more liberal than those which the Government of Bombay were prepared in years of famine to their own ryots and Zamindars who did not enjoy, the benefit of a permanent settlement.<sup>3</sup>

The equitable principle which the the Baroda Government sought to establish for granting proportionate remissions, was the consideration of the income of the tributaries which was now greatly increased.

It appears from the records of the Baroda State that exhaustive representations were submitted by Baroda Government in 1908<sup>4</sup> in the matter of the remission in the tribute and Jamabandi, on account of famine etc. The Government of India, however, declined in 1911, to make any change in the existing practice on the ground that the final decisions of such grants must rest with them. They had intimated that they did not propose to reopen discussion as to the authority with whom the right to grant remissions or suspension of tribute in

1. H. P. O. Selection 341 File No. 4.

2. H. P. O. Tribute and allied matters Vol. 1 p. XIII

3. H. P. O. File No. 341/9

4. H. P. O. File No. 116/58

these states rested, or to review the grounds on which past decisions on the subject were based. *It is equally indisputable, they said, that the final decisions of such grants must rest with the British Government.*<sup>1</sup>

The Government of Bombay however, had admitted the equitable nature of the principle held by the State but in practice they refused to follow it. It is interesting to note Capt. F. H. Jackson, Assistant Resident's remark made on the D. O. note submitted by Raja Sir T. Madhav Rao on Nawanagar remission. He stated, "I think the Minister's opinion is sound one, and that no remission should be made without such very good reason as a 'Famine'. The Nawanagar State ought to be rich if it was not mismanaged."<sup>2</sup>

#### Suspension of Tribute

Occasionally suspensions in tribute were granted by the Government of Bombay to the tributaries of the Baroda State, without consulting the Baroda Government beforehand. The Baroda Government was therefore also seen expressing its deep concern as these suspensions resulted in some loss which was equal to the interest on the sums suspended. The Baroda Government demanded here also the above quoted provision to be applied that the recommendations for suspensions, with the reasons for them, should be referred to them before orders were passed.

#### Reduction of Tribute

Till 1889, the British Government followed unreservedly the principle that the tribute as permanently fixed by the settlements should in no case be permanently reduced. This was rather the natural corollary of the stipulation of the arrangements made for the procurement of tribute free of expense from Kathiawar and Gujarat by the British Government.

But in 1889, on the representation of the Pethapur Taluka of the Mahikantha Agency the tribute was first experimentally reduced for five years and in 1905, it was fixed at 35% of the gross revenue, subject to revision after 10 years.<sup>3</sup> The reasons used by the Pethapur

1. H. P. O. File No. 341/9

2. Residency File No. 425.

3. Political Deptt. Selection 116/76, Pethapur Tributes.

Taluka were proved to be fallacious by the Baroda Government and in consequence demanded that the tribute should be restored to the figure at which it was permanently fixed in 1812 and further remonstrated to the British Government that the Treaty engagements gave no authority to the British Government to reduce the amount of the tribute already fixed and recognised by them.

However, the question was equitably settled so far as Pethapur Taluka was concerned. The Government of India directed that the 35% limit for tribute should be adhered to but that there should be no maximum limit. This meant an immediate increase of Rs. 2369/- p. a. It was observed further by a Baroda note on the subject that "it will in course of time result in tribute much in excess of the high figure fixed in 1812, being paid to us annually."<sup>1</sup>

#### Interest on Tribute

One more question had arisen with respect of the tribute. In the engagements which the tributaries passed at the time of the settlements, it was provided that 'they shall pay interests at 12% on overdue instalments of tribute.'<sup>2</sup> From the records it appears that the Government of Bombay latterly remitted a sum of about Rs. 50,000, which had accumulated on account of interest, on the ground that as accounts were not punctually prepared by the Kathiawar Political Agency, the tributaries had not been informed about the sums due by them for interest. The Government of Bombay, in the latter years had also given discretion to their Political Agents in Kathiawar, Mahikantha, Rewakantha and Palanpur to decide whether interest should or should not be charged on overdue instalments in particular cases, and to fix a rate varying from 6 to 12 percent at which interest, if any, should be charged. Baroda Government on coming to know this change of procedure and order showed a disapproval of their Government to the new policy.

They maintained that except in cases where tribute was remitted or suspended, interest should be charged on all overdue instalments and it should be calculated at the rate of 12% as mentioned

1. H. P. O. Tribute and allied matters, Vol. I-A note on the subject.

2. *Ibid.*, p. XVII.



in the engagements. There should also be no discretion left with the Political Agents to vary this rate.<sup>1</sup>

With sympathetic consideration in conformity with the new policy in the latter part of the second decade of this century this question was settled to the satisfaction of Baroda Government. The instructions of the Government of India to Bombay Government that "in future the normal procedure should be to charge interest at 12% p. a. according to the engagements passed by the tributaries and that remission or reduction of interest should in exceptional cases be sanctioned only after consulting His Highness' Government," put all doubts to rest.<sup>2</sup>

#### (C) Boundary and other Jurisdictional disputes with other Powers

Boundary disputes and problems and claims of jurisdictional rights were familiar features of the history of States. They were rather more frequent, of greater variety and covering a wider area with regard to Baroda State because of its geographical characteristic. Its territory interspersed and intermingled with other jurisdictional regions. Situated in the province of Gujarat in five district territorial blocks cut off from each other by large tracts of British territory or territory of other Indian States, it was a non-tributary State in subsidiary alliance with the British Government. For administrative purposes, the State had been divided into five districts—Baroda, Kadi, Navsari, Amreli and Okhamandal, in Central Gujarat, North Gujarat, Southern Gujarat and lastly in Kathiawar respectively.<sup>3</sup>

It was, therefore, natural, looking to its distinctive characteristic, that there were innumerable cases of boundaries and of other jurisdictional matters. For the sake of convenience it is better to pick up only those disputes which were either important or which marked a definite change of policy or asserted an already established policy in deciding the disputes. These could be divided as :

- (1) Disputes with British Government itself.
- (2) Disputes with other native States.

1. H. P. O. File No. 341/4

2. H. P. O. Tribute and allied matters.

3. Baroda Gazetteer, Vol. 1, p. 2.



The voluminous correspondence on the subject shows that all communications took place with the British Government, irrespective of the State or Government with whom the dispute arose as all the communication regarding disputes with other States also passed through the Residency as intermediary, because no direct dealings were allowed according to the various arrangements and settlements agreed to between the two Governments *viz.* Baroda and British.

With regard to the Boundary disputes, the question divides itself under these broad headings :—

- (1) Appointment of a boundary officer,
- (2) Settlements of boundaries by him,
- (3) Provision of appeal from his decision, and lastly
- (4) Demarcation and maintenance of these settled boundaries.

Out of these four questions the most important was for providing the right of appeal. While on the one hand Baroda Government demanded it as an absolute 'must' supported by the Agent to the Governor-General, and on the other hand Government of Bombay not very much in favour of granting this. Once this difficulty was overcome the problem was much easier to solve.

#### Panch Kalami Rules

Before the Establishment of the progressive administration under the Dewan Raja Sir T. Madhav Rao in Baroda, in 1875 the settlement of the boundary questions was guided by what were known as "Panch Kalami Rules"<sup>1</sup>, so called as there were five articles. The old record does not throw any light as to how, why and when they originated but it does show that they formed the guiding principles, till the question was raised by Sir Richard Meade in 1875, in regard to Settlements effected both in Mahikantha and Rewakantha Agencies. The Settlement officers in both these Agencies, had not recorded any objections to these rules, which appeared to have had worked very well as remarked by Capt. Jackson in 1876.<sup>2</sup>

1. Darbar yadi of 2nd November 1854, Residency File No. 655.

2. *Ibid.*

### Boundary Communication

was to Sir Richard Meade, after his appointment as Special Commissioner and Agent to the Governor-General, that first of all the need of a special machinery for settling the boundary disputes, was felt. He realised at once the complexity and volume of the whole problem. He first of all wrote to the Government of India for an additional assistant for this purpose.<sup>1</sup> Thereafter he applied to the Bombay Government for the services of an officer for the appointment of a Boundary Settlement Commissioner for Baroda. In the following year, the Agent to the Governor-General sought orders on two questions from the Government of India viz. whether Baroda State should have the right of appealing from decisions passed by officers appointed by the British Government for the settlement of boundary disputes and secondly whether the existing Panch Kalmi Rules for deciding such disputes between Baroda and neighbouring Native States should be revised. The Agent to the Governor-General, however, recommended that the right of appeal must be granted to the State and also that the existing rules which were very meagre may be revised with advantage.

### Right of Appeal

Raja Sir Madhav Rao also immediately saw the urgency and expediency of the problem, accepted the desirability of an appointment of a Boundary Commissioner, and agreed to pay a moiety of salary and allowance, but at the same time was cautious to point out that before the appointment of the officer was made the ground should be prepared in such a manner that as soon as he arrived to take charge of his post he may immediately apply to his work. For this, he pointed out the nature and scope of his work might be defined and procedure laid down. Also a comprehensive list of disputed boundaries was prepared, in consultation with the Residency which showed that in all there were 90 cases<sup>2</sup>, and out of these 49 were disputes between Baroda and British districts; and Baroda and British Political Agencies. The Agent to the Governor-General named them as (1) Surat, (2) Broach, (3) Khaira, (4) Panch Mahals.

1. *Ibid*, Resident to Govt. of India, dt. 6 Sept. 1875, Letter No. 268/3445.

2. Dewan to Resident, dt. 17th Oct. 1876, *Ibid*.

and Mahikantha, Rewakantha and Palanpur Agencies. On the recommendation of the Agent to the Governor-General, moreover, Rajputana Agency Rules were accepted by the Government of India to commence the work. Later on the Agent to the Governor-General was empowered to make necessary alterations in detail in these Rules so as to fit in this region and problems. But the Government of India stated further that the rules definitely prescribed for observance in settling boundary disputes in Bombay Presidency required mature considerations as Bombay Government was definitely of the opinion that the State could not have any right of appeal from the decision of the Boundary Commissioner, and with this remark sanctioned appointment of a Boundary Commissioner as desired by the Agent to the Governor-General.<sup>1</sup>

The Agent to the Governor-General was of the opinion that "In regard to cases that have been already decided, and in which the right of appeal was not reserved, or where reserved, was not exercised in proper time, no appeal now be allowed."<sup>2</sup> The question now as he put it related to future and not to past decisions.<sup>3</sup> Raja Sir Madhav Rao was, however, of the opinion that appeals to past decisions on some strong and solid and also reasonable ground, if Agent to the Governor-General was convinced, be allowed.

In forwarding his views to the Government of India, the Agent to the Governor-General P.S. Melvill strongly defended the right of appeal for future decision for the sake of fair play and justice.<sup>4</sup>

The A.G.G.'S words somehow fell on right ears and his communication had the desired effect on the Government of India, but it advised the Agent to the Governor-General not to press this point at that juncture as Sir Philip Wodehouse's Government in Bombay was energetically objecting to the right of appeal and it thought that if any appeal was to be allowed it should not lie to the Agent to the Governor-General at Baroda as he would be regarded as prejudicial in favour of the State to which he was attached. Lord Lytton, therefore, pending the change in the Gubernatorial  
Richard Temple was taking over from Sir Philip Wode-

1. *Ibid.*, Bombay Govt., to Resident dt. 20th Feb. 1877, Letter No. 4160.

2. A.G.G. to Dewan, 12th March 1877, *Ibid.*

3. *Ibid.*

4. *Ibid.*

house) thought that in the altered atmosphere the Bombay Government would not raise its objection as it was doing then ; and some satisfactory arrangement could be reached.

Later on, as anticipated an agreed formula was adopted. Sir Richard Temple in September 1877 permitted an appeal to the Governor-General's Agent, Baroda, jointly with the Revenue Commissioner. If these two high officers were unanimous in their decision no further appeal was to be necessary. If they should differ a further appeal was allowed to the Governor-General.<sup>1</sup>

This right of appeal was an assertion of one of the cardinal principles of judicial proceedings. But in view of the objection raised by the Bombay Government the Agent to the Governor-General suggested an alternative to the Governor's formula. He said, "With regard to the feeling that is said to be entertained by the neighbouring native States of the want of impartiality that may be expected from the Agent to the Governor-General, a feeling which is attributed to the position he holds at the Court of the Gaekwad, I should be glad to be free of the duty of hearing the appeals even in communication with the Commissioner Northern Division. I would suggest, therefore, that the first appeal should lie either to the Commissioner Northern Division alone, or to the Collector or judge of the nearest British District. Sir Madhav Rao has suggested in a Demi-official letter to me that the appeal should be heard by any District British Judge that Government may designate for the purpose."<sup>2</sup>

Defining the scope of the Boundary Settlement Officer, Sir Madhav Rao made it clear that Wanta villages in Baroda territories should be omitted from the list of Boundary disputes to be decided by Major Warden, because Major Warden was concerned with boundary disputes between different jurisdiction whereas the Wanta villages and those surrounding them were under the same jurisdiction.<sup>3</sup> This contention was supported by the Agent to the Governor-General and accepted by the Bombay Government.<sup>4</sup>

1. *Ibid.*

2. A.G.G. to Bombay Govt. dt. 5th Nov., 1877. *Ibid.*

3. Dewan to A.G.G. dt. 18th Sept. 1879. *Ibid.*

4. Govt. Resolution No. 927, dt. 28th Feb. 1880 *Ibid.*

After the settlement of such an important issue of appeal, there remained the question of demarcation and maintenance of the settled boundaries. For this purpose, whenever a difference of opinion arose between the then responsible officers of Baroda and British Governments in charge of this question, cumbersome method of corresponding through the Agent to the Governor-General's office had to be resorted to. Delay, unnecessary increase of work and useless exchanges of communications and other complications were the natural outcome. But hitherto that method had been followed since the Baroda Government undertook not to correspond directly with other Governments except through the medium of British Government.

However, this question appeared in its aggravated form when in 1884 Baroda Government started their Revenue Survey Department and among other matters the Minister asked that the Assistant Survey Commissioner or the Divisional Subas might be permitted to correspond direct with political officers of neighbouring States in view to ensuring their presence of officials from the other side to point out the boundary. In case of petty disputes of encroachment, these officials, it was suggested, should be authorised to settle them.

General Watson, the Agent to the Governor-General communicating this to Bombay Government supported this request and the suggestions appeared to him to be calculated to promote the easy adjustment of petty disputes on the frontier. The Bombay Government agreed to this.<sup>1</sup>

Again in the year 1888, J.L. Jenkins, then acting as Survey and Settlement Commissioner, requested that he may be permitted to correspond direct with British Collector for a similar purpose. This was also agreed to in cases where the actual boundary was not in dispute.<sup>2</sup>

After two years, the Minister asked that permission may be accorded to the Superintendent of Revenue Survey and Boundary Officer to correspond direct with the Political Agents and Collectors, in addition. Sir Henry Prendergast, the Agent to the Governor-General declined to accede to this request in principle, but made

1. *Ibid.*

2. *Ibid.*



one concession in 1892 and accorded this facility to Machonochie, the then Boundary Officer, which he said was personal to Machonochie alone.<sup>1</sup>

From the above short account it is evident that it had been the expressed opinion of more than one Agent to the Governor-General that the procedure of direct correspondence in this particular branch of business conduced to the satisfactory settlement of petty disputes on the frontier. The Government of Bombay also entertained this view. Even in the case of Machonochie, though Sir Prendergast declined to accede to allow him to correspond direct, in his absence Col. F.H. Jackson acting as Agent to the Governor-General allowed Machonochie a personal consideration. It was only, therefore in 1890 that the sentiment of personal consideration began to creep in, in the measure which was meant to facilitate public business.<sup>2</sup>

It also appears from the record that later on in 1896 Bombay Government allowed the Boundary Commissioner to correspond direct with British Political Officers.

Against this background, some of the important Boundary disputes, alongwith certain other disputes wherein jurisdiction too figured were settled. There were numerous cases. Here only important typical cases could be noted.

**(A) Boundary and other Jurisdictional disputes with British Government**

**1. Dang Boundary Case**

The Dangs are situated in the vicinity of Songadh in Khandesh in Bombay State which was the capital of the Baroda State from 1724 to 1761. At an early period in the history of the State, the rulers came into relations with the Dangs and acquired territories in that area.

The East India Company first came into contact with the Dangs in 1818 in which year they acquired the districts of Khandesh and Nasik from the Peshwa by conquest. To check the raids of the Chiefs and inhabitants of the Dangs into these districts, they found

1. *Ibid.*

2. *Ibid.*



it necessary to maintain a cordon of military posts.<sup>1</sup>

In connection with measures for checking the raids of the Dangs Chiefs the Resident at Baroda stated that the Dang Chiefs were in receipt of certain Haks (rights) from the villages of the Baroda Government, and that for the peace and tranquility of the country, it was necessary that in future these Haks should be paid to them through the officers of the Company's Government in Khandesh. In their reply the Baroda Government stated that they would agree to the proposal provided separate Security Bonds in their favour were taken from the Dang Chieftains. They enclosed the Memorandum showing the payments made to the Dang Chiefs, the villages in the Dangs in which these chiefs enjoyed a half share and the mode of collecting revenue due respectively to Baroda Government and the Chiefs. After verifying the information contained in the above Memorandum, the Collector of Khandesh issued in 1828 a Sanad to the Chief of Godhavi (in the Dangs) for himself and for the Chiefs subordinate to him. In this Sanad, it was stated that the Chiefs were to receive a sum of Rs. 1520 on account of their Giras, that the Baroda Government were to recover their half share of the revenues of the co-shared villages and that the Chiefs were to receive the other half and also recover their revenues from the villages which were entirely theirs.

In the correspondence which subsequently took place, Baroda Government raised the question of the execution by the Chiefs of separate bonds in their own favour. But this was not pressed as the collector informed them that the Dang Chiefs had been bound over by him not to create disturbances in Baroda territory and if they created any such disturbance, they would be made to pay compensation.<sup>2</sup>

In 1842 the Government of Bombay obtained a lease of the Dang forests from the Chiefs.<sup>3</sup> In connection with the exercise of the rights acquired under this lease, the position of the Baroda Government in their co-shared villages came to be discussed.

1. H.P.O. Dang Case, Bound Volume, p. 11.

2. R esidency Yadi No. 352 dt. 29th July 1836.

3. *Ibid.*

This topic formed the subject of enquiry by two Committees<sup>1</sup> consisting of the Assistant to the Resident at Baroda and the Assistant to the Political Agent Khandesh, in 1867 and 1872 respectively. As a result of these enquiries the number and the names of the co-shared villages were definitely ascertained. The first Committee came to the conclusion that the Baroda Government were entitled to half the revenue, Abkari, and transit duties. The second Committee whose report was to be supplementary to the first Committee, expressed the view that the Baroda Government could not derive revenues from Abkari or Transit duties, as these were vested in the authority exercising jurisdiction, and the Bombay Government were at the time actually exercising the jurisdiction. They found that the Baroda Government had a share in the forest revenue i.e. revenue in the co-shared villages from wood passing through nakas. In 1884, the Government of India in effect approved the findings of this second committee. The orders of the Government of India were confirmed by the Secretary of State for India in 1889.<sup>2</sup>

It appears from the record that the Baroda Government more than once expressed the view that the decision regarding the co-shared villages in the Dangs proceeded on incomplete information about the history of the Gaekwad's relations with this territory. Subsequent authoritative reports had however elucidated this insufficient detail. The first of these was in 1886 by Col. Bullock an "independent officer unconnected with Bombay or Baroda" who was appointed to settle and demarcate the North-Eastern Dang boundary, by the Government of India at the suggestion of the Government of Bombay.<sup>3</sup> Before this officer, all the arguments which had been used in support of the position that Baroda had no territorial possessions in the Dangs were urged, but he came to the conclusion that Baroda's connection with the Dangs was much older than was believed by the Boundary authorities. This officer after an exhaustive investigation, awarded to Baroda in full sovereignty a strip of 64 miles in the Dangs consisting of the group of Malangdev villages which was claimed on behalf of the Dang Chiefs by the Government of

1. Residency File No. 651.

2. *Ibid.*

3. H.P.O. Dang Case Vol. I, p. 265.

Bombay.<sup>1</sup> Again in 1906 while the South Eastern Boundary of the Dangs was being demarcated the Bombay authorities did not raise objection to the sovereignty of Baroda over the villages of Harpada, Torpada and Khokharvihir in the Dangs attached to the fort of Salher.<sup>2</sup> Still later, i.e. in 1918 to set at rest all doubts about the sovereignty over the fort of Salher referred to elsewhere and the villages of Wadi Salher at its foot, the Government of Bombay formally ceded these to the Baroda Government.<sup>3</sup> The position then in 1920 was that Baroda Government held a portion of the Dangs in full sovereignty and they also enjoyed the rights in the co-shared villages in accordance with the arrangement of 1828. Baroda Government only desired that the decision of 1884 should be read in the light of the subsequent decisions relating to the same area.

There was still another question relating to the Dangs. At an early stage in the correspondence the Government of Bombay raised the question of commuting the rights of the Baroda Government, in the co-shared villages.<sup>4</sup> They stated that calculating the whole revenue, the maximum figure had been found to be Rs. 950/- a year, and proposed that the British Government might guarantee the payment of this amount annually to the Baroda Government. They added that if the Baroda Government liked to collect their revenue through their own Agency, they should engage such Kamdars as would behave with circumspection and that it should be clearly understood that the business of these Kamdars, would be only collection.<sup>5</sup> The Resident further observed that the Secretary of State for India, in approving this suggestion of the Government of Bombay had observed that the British Government was the Paramount Power in India and had taken a lease of the Dang forests and had therefore to take these measures to preserve tranquility in these hilly tracts, and that if the Baroda Government accepted the proposal, it would only remain for the Baroda Government and the Dang

1. H.P.O. Dang Case, Vol. I, p, 302.

2. H.P.O. 'Status of Wadi Salher', p. 12.

3. H.P.O. 'Status of Wadi Salher', p. 64.

4. H.P.O. From a note on the subject in the Bound Volume of P.O. papers.

H.P.O. From a note on the subject in the Bound Volume of H.P.O. Papers. See Residency Yadi no. 276 dt. 16th July 1869.

Chiefs to receive the equivalent of their rights in cash from the British Government. The Baroda Government did not agree to this proposal and the Government of Bombay informed them that the Baroda Government might adopt the other alternative suggested *viz.* the collection of the amount through their own officers without interfering in the administration of the Dangs.<sup>1</sup>

Three years later, L. R. Ashburner, Political Agent, Khandesh in a letter to the Resident at Baroda, suggested the exchange of the Gaekwad rights on the revenue of the co-shared villages for other lands in full sovereignty on the borders of the Dang.<sup>2</sup> and thus to do away with the system of co-shared villages. This dispute lingered on till 1881. In this year P. S. Melvill, Agent to the Governor-General at Baroda, felt that in the circumstances the best solution was that the rights of the Gaekwad in the co-shared villages should be exchanged for lands in full sovereignty on the borders of the Dangs and adjoining the Gaekwad's own territory.<sup>3</sup>

However, the Government of India and the Secretary of State for India did not take the above recommendations into consideration. Baroda Government not feeling justified in accepting a commutation on the basis "of the value of their future claims on the profits of the past alone" preferred to direct their efforts to deriving the fullest benefit from their rights. Their renewed appeals in 1905 and 1917 fell on deaf years.

Here the question stood, awaiting its final disposal at the end of 1920.

The solution of the question of Dang boundary and the rights of the Gaekwad in the co-shared villages was much complicated due to various reasons. Principally among them were :

- (1) Over-enthusiasm of the British Government in ousting the Baroda Darbar from this territory. This precluded them to judge the events of History and evidence obtained by the Committees constituted to investigate in the issue. It is doubtless true that there were evidence and reports

1. Residency Yadi No. 2241 dt. 20th November 1869. H.P.O. Dang Case, p. 12.

2. *Ibid.*

3. *Ibid.*

which went against the Baroda Claims.<sup>1</sup> But on the other hand the weight of the evidences in favour of the State was also not lacking as pointed out by Raja Sir T. Madhav Rao in his Memorandum on the subject in 1881.<sup>2</sup> This confusion of evidence constituted a great handicap in the solution.

- (2) The doubtful territorial limits between the territories of the Gaekwad and the British Government prevented the final agreement on the Boundary.
- (3) The shifting character of the people inhabiting this area was the greatest uncertain element in the final settlement. On investigation some of the co-shared villages were not traced as they were deserted. This shifting character of the people was also reflected in their giving evidence. Sometimes they would say something and on the other occasion they would disown their statement.
- (4) The Geography of the country of Dang also presented great difficulties as the approach to the interior was rather hazardous. It was a hilly tract and was inhabited by an aboriginal tribe known as Bhils, who were not always cooperative.

## 2. Wadi Salher

Salher was situated in the Navsari District of Baroda Government and regarded by them as their independent possession. Notwithstanding this, it was proposed by the British authorities in 1867 to treat the same as a Political Saranjam<sup>3</sup> to the Maharaja. On Baroda Government entering a protest against the proposal, it was abandoned at the time. In 1904 the Government of Bombay intimated that there was no misapprehension as to the *status* of the village, and that while they had no desire to make any change in the manner in which it was managed, they regarded Wadi Salher as a British village held by the Gaekwad in Political Saranjam.

1. See Report of Pritchard and Reeves dt. 29th June 1867, Residency File No. 651.
2. H.P.O. Dang Case, Vol. 2, Pp. 66-71.
3. Political Saranjam means Inami villages agreed to by political treaties.



A representation was hereupon made by Baroda Government.<sup>1</sup> but the question was not reopened for some nine years when in 1915 Baroda Government pointed that the village had been held in full sovereignty rights and not as a Saranjam by them and certain portions quoted from old papers in support thereof.<sup>2</sup>

As a result of this, the Government of India though not admitting Baroda's contention that the village was Baroda territory, agreed with the Government of Bombay that the position then obtaining was unsatisfactory and required to be regularised. The village was, therefore, formally ceded to Baroda Government and the claim of the British Government for annual sum of Rs. 40 (Forty) from its revenue abandoned.<sup>3</sup> Baroda Government thereupon requested the Residency to arrange for the necessary corrections in all the British maps by showing the village as Baroda territory. This request was acceded to by them.<sup>4</sup>

Before this question arose the usual practice followed in settling such boundary was to adopt the method prevalent in the region. The rational procedure was first of all followed in this case of Wadi Salher.

### 3. Boundary dispute between two Riparian Villages

It is easy to demarcate the boundary line when land frontiers were concerned but where the river formed the Boundary line the question got puzzled. There were in that case two obvious methods which could be followed and were also in vogue. Either the centre of the river bed was chosen as the boundary or the centre of the flow of the stream was adopted. This type of a question arose with regard to the boundary line between two riparian villages of Piplej in Kadi in Gaekwadi district and Wasna in Mahikantha Agency and an important ruling was given at the end which solved the dispute.<sup>5</sup>

Piplej and Wasna were border villages. The boundary of

1. Huzur Cutchery Letter dt, 7th June 1906. H.P.O. "Status of Wadi Salher", p.12.
2. *Ibid.* Dewan to Resident, 7th August 1915. Pp. 47-48 Also see Residency letter No. 12454, dated 27th November 1915 refuting Baroda's claim.
3. Vide Residency Letter No. 16304 of 16-11-1918. *Ibid.*, p. 74.
4. Their Letter No. 981 of 22-1-1919, *Ibid.* p. 77.
5. Residency File No. 426.

these villages had not been specifically settled but the river Sabarmati which was flowing between them was considered as the boundary.

In 1883, the Thakarani of Wasna complained to Political Agent Mahikantha that those people of Piplej who were cultivating in the bed on the Wasna side of the river should either be asked to pay *wujey* (share due to landlord) or the cultivation should be removed.

The Thakore of Piplej while admitting the action of the people contended that owing to the boundary between the two villages not being settled, the people of Wasna also cultivated in the river bed on the Piplej side and did not pay any *wujey* for doing so and *vice versa*. He further contended that half the river bed and not half the flow of water as maintained by Wasna was the boundary between these two villages.

On the other hand the Assistant Political Agent Mahikantha Col. Scott, in 1887, stated that only the centre of the stream should form the boundary.

From the old record of the Government it was evident that both the practices were followed. However, the Government of Baroda stated that most of the recent decisions recognised the advisability of fixing the centre of the bed of a river or a channel as boundary and not the centre of the principal stream or current.<sup>1</sup> Their contention was that by the old policy, the boundary used to be changed with the change in the main current, and thus the same boundary had to be settled over and over again. The cited Indroda and Shahapur case of a similar nature, where the above principle *viz.* fixing the boundary between the river bed was fully discussed and recognised. The Minister also cited the Memorandum of the then superintendent of Gujarat Revenue Survey, dated 24th February 1877 in support of his contention. But the Agent to the Governor-General appeared to agree with the views of Col. Scott and not the Minister. The question then very much got mixed up as the succeeding A.G.G. supported the Minister in 1891. On referring this matter to the Political Agent Mahikantha Lieut. Col. J.M. Hunter said,<sup>2</sup> "According to Government Resolution No. 7491

1. Baroda Government's Letter dt. 28th March 1880. *Ibid.*

2. 30th November 1891. Residency File No. 426.

dated 19th December 1885, the question whether the mid bank line or the mid channel of the main stream should be the boundary between river-divided states is to be decided by the custom of the country. It appears that the custom of this part of the country which the Baroda State has recognised recently in the settlement of a neighbouring boundary, is to consider the main stream as the dividing line."

The apparent inconsistency in the Baroda stand and the unbending attitude of both the Governments forced the Resident to refer the question back to the Bombay Government for their authoritative instructions. This resulted in the Bombay Government Resolution specifically stating where the mid channel or mid bed principle was applicable.<sup>1</sup>

The celebrated authority on the Native States of India, Sir William Lee Warner was the Secretary to the Bombay Government this time and the decision was received under his signature and the Piplej-Wasna boundary was fixed up in the mid channel.<sup>2</sup>

The Government of Baroda accepted the decision of the Bombay Government but requested in return to revoke their decision regarding Shahapur-Indroda case which they thought stood on all fours with the Piplej-Wasna case. But Government of Bombay refused to open up questions already settled. When the above decision was communicated to Baroda Government a Baroda official commented.

"It was not known hitherto that it was the intention of the Bombay Government to apply the principles underlying strictly judicial cases to the settlement of political cases."<sup>3</sup>

#### 4. Village of Surval

This was an interesting case regarding the dispute of double jurisdiction and the typical remedy suggested for its solution. Secondly, an important principle of administration with regard to relation of the British Government with the Native States was also laid down in the correspondence relating this dispute.

1. Resolution No. 4326 1st July 1892. *Ibid.* Where large rivers of which the bed is fairly full throughout the year divide States, the rule of mid channel was adopted. Where the river ran very dry and shifted its channel but left the bank as a permanent boundary the rule of mid bed was preferred with a reservation of the right of use of water. But if banks were subject to erosion, the mid channel was a better choice.

2. *Ibid.*

3. *Ibid.*

Surval was situated in the Banaskantha District (then Agency) on which the Nawab of Radhanpur claimed an exclusive jurisdiction, instead of the joint jurisdiction of Baroda and Radhanpur, in 1883 ; and thus the question was referred to the Boundary Commissioner.

The Boundary Commissioner found that joint jurisdiction existed ; and added the opinion that the arrangement was inconvenient. The Nawab of Radhanpur appealed against this decision to the Commissioner of the Northern Division who concurred with the Boundary Commissioner's view and passed orders favourable to Radhanpur.<sup>1</sup>

The Gaekwad appealed against this decision of the Commissioner Northern Division to the Governor-General-in council and Radhanpur also replied to the Gaekwad's Memorial.

The Government of India after consideration of these papers, and of all the circumstances of the case, opined that the Commissioner of Northern Division had no powers to pass the order above quoted, and thus annulled it.

The village of Surval was thus restored to the joint jurisdiction of Baroda and Radhanpur. However, the Government of India thought that the existence of double jurisdiction was rather undesirable and directed the Agent to the Governor-General at Baroda to endeavour, in communication with the Government of Bombay, to bring about a more satisfactory settlement of affairs. Later it pointed out to its officers that in future they should observe that in the absence of very special circumstances, copies of communications addressed to or received from the Government of India should not be sent to Native States. The usual practice was to convey the purport of the communications, using as far as possible the exact language, in which the orders of the Government of India were expressed. It was generally desirable to avoid explaining in detail the reasons upon which the orders were based, but such explanations were necessary at times and in this respect the discretion must be left to local authorities.<sup>2</sup>

### 5. Chandod Jurisdiction

Chanode (or Chandod) was a town (Kasba) situated on the

1. Residency File No. 396.

2. Govt. of India to Bombay Govt. 1st. Sept., 1886. Surval case 'Selection No. XI, Vol. III.

banks of the Narbada river, and was a celebrated place of Hindu pilgrimage. It lay within the boundary of what was known as Rewakantha Agency, at a short distance from the territory belonging exclusively to Baroda. On the other side of Chandod was Mandwa, the residence of the Rana. The Rana belonged to an ancient Rajput family, and there was a good reason to believe<sup>1</sup> that he exercised independent jurisdiction on Chandod upto the close of the Mahomedan period in 1755 A.D. But the Gaekwad power overran Chandod, and established its own authority, the Rana retaining certain fiscal and manorial rights, with jurisdiction to enforce them.

In 1825, when the Mewassis tribes of the region were settled and placed under the control of the Political Agent of the Rewakantha, it was noted in the Gaekwad's Memorandum of Settlement that he and the Rana had each *half mal* in Chandod.<sup>2</sup> For many years the expression was interpreted as meaning "concurrent jurisdiction" but eventually it became necessary to define their respective rights. Different views on the subject had been held by successive Residents of Baroda on the one hand, and Political Agents, Rewakantha, on the other, but in 1854 the Resident Major Malcolm, and the Political Agent, Major Wallace, concurred in a decision which was approved by the Government of Bombay, and after some misunderstanding also approved by the Court of Directors.<sup>3</sup>

The respective rights of the contending parties in Chandod, as declared in the decision of Major Malcolm and Major Wallace might be summarised as follows :—

*The Gaekwad's Rights :—*

- (1) Civil and Criminal Jurisdiction
- (2) The Collection of customs
- (3) The Collection of certain specified fees
- (4) The right to receive *Farmaish*

*The Rana's Rights :—*

- (1) Ownership of the town and lands
- (2) Fees on all transfers of real property

1. Rasmala Vol. II, Pp. 278 and 279.

2. H. P. O. Selection No. XII Chandod Case, p. 272.

3. See Letters No. 278 of 1854 ; No. 87 of 1855 ; No. 2 and 156 of 1856.  
H. P. O. Selection No. XII Chandod Case, Pp. 373.



- (3) Escheat of all intestate property
- (4) Sanction or refusal or adoptions
- (5) Sanction of divorces
- (6) Taxation of lands, trades and individuals
- (7) Half share of fines imposed by the Gaekwad in cases of adultery, and "an independent power of proceeding, so that even should the Gaekwad omit to adjudicate in such cases, that would not bar the Rana's jurisdiction." "All the privileges involved in the idea of Chandod being his property, which are not actually inconsistent with the specified privileges of His Highness the Gaekwad."<sup>1</sup>

And further it was decided that any difference in regard to the exercise of Criminal jurisdiction by the Gaekwad's Thanadar<sup>2</sup> or the Rana's Proprietary right<sup>3</sup> was to be decided by the Political Agent, in the Rewakantha in harmony with certain official notes<sup>4</sup> by the Gaekwad which preceded the Settlement of 1825 and with a certain paper of instructions<sup>5</sup> given to a person who framed the Gaekwad's rights in Chandod in 1827. These documents set forth the Gaekwad's rights in general terms, the way in which the Civil and Criminal cases were to be adjudicated, and offenders punished, the authorised court fees and stamps duties in Civil suits etc.<sup>6</sup>

In spite of this clear definition of each other's rights and the Political Agent Rewakantha having been vested with authorities to decide disputed points, the Gaekwad Government had protested against decisions of Col. Barton in sixty-one cases.<sup>7</sup>

To end the stalemate, Bombay Government declared that if possible the Political Agent should work out any question that may arise in direct communication with the Agent to the Governor-General if he cannot arrive at a conclusion satisfactory to himself and the Thakore, and then but not till then, should he refer to Government.<sup>8</sup>

1. *Ibid.*

2. Para 6 of Major Wallace's Letter No. 278 of 12th Oct, 1854. *Ibid.*

3. Para 3 of his Letter No. 87 of 1855. *Ibid.*

4. Paras 7 and 8 of Mellvill's Report 3695 of 6th June 1876. *Ibid.*

5. Vide page of the Printed Compilation of 1876.

6. H. P. O. Selection XII Chandod Case, p. 374.

7. *Ibid.*, p. 375.

8. *Ibid.*, Pp. 383-386

This clear injunction set at rest the controversy raging over the position of the Gaekwad and the Rana in Chandod. The only question that remained unsettled was of the Chandod Boundary.

#### Boundary Question

The question to be determined was simply this. Did the exclusive Civil and Criminal jurisdiction of the Gaekwad in Chandode extend only over the plateau on which the town itself was situated or did it extend over the town lands as well?

J. King, the Special Settlement Officer who was entrusted to draw the limits of Gaekwad's jurisdiction in Chandod, held in 1879 that the Gaekwad possessed civil and criminal jurisdiction merely in the town itself<sup>1</sup> while Sir Madhav Rao with whom the Agent to the Governor-General concurred on the other hand held that the jurisdiction extended over the town land also. The Government of Bombay held "that Chandod has lands attached to it appears to be satisfactorily established, although this point also has in previous correspondence been contested."<sup>2</sup>

The Bombay Government was also of the view that the question was one of considerable difficulty. Different authorities had held different views. Many of the arguments advanced on either side were deserving of careful consideration, whilst others were remarkable rather for their ingenuity than for the conviction they carried with them. On the careful consideration of all the correspondence and papers on the subject the Governor-in-council opined that the balance of evidence, of arguments and of probability, was in favour of the view maintained by Sir Madhav Rao and supported by Mr. Melvill." They agreed with the Dewan of Baroda State who had proposed a compromise by virtue of which the Gaekwad's Government, whilst abandoning its claim to civil and criminal jurisdiction over the whole of the lands belonging to Chandod was to be acknowledged to have such full jurisdiction in the limited portion marked off by the green line in the map that had been sent by the Minister with his letter.<sup>4</sup>

1. *Ibid.*, p. 388

2. *Ibid.*, p. 416

3. Bombay Govt. Resolution dt 3rd Oct. 1879. *Ibid.*

4. The map referred to can be seen in the printed volume on 'Chandod Case' No. XII of the Record Office, Baroda.

Hereupon the demarcation of the boundary was entrusted to the Boundary Commissioner Major Warden, and the "complicated question" came to an end.

**(B) Boundary and other jurisdictional disputes with other States**

Among the disputes regarding the boundary and other jurisdiction with other Indian Native States three of them figured prominently and all of them were with Junagadh, viz.

- (1) Junagadh Zortalbi Prakaran,
- (2) Prachi and Prabhas Pattan, and
- (3) Gheer Boundary case.

**(1) Junagadh Zortalbi Prakaran**

This was a typical case of an Indian Native State of a mediæval age in a way, where the whims of a Ruler of a State were the principles of taxation that were operated in unimaginable ways for exacting money from the people. In such cases British policy used to be one of expediency and not always of justice and fair play. It saw the sensitivity of an Indian Ruler to such rights as were claimed, and where they (British) were not losing anything they were shrewd enough to uphold these rights. This was true with regard to the nature of the taxation such as Zortalbi which as claimed by the Baroda State was in the nature of Ghoda Vero or horse-tax in the beginning.

Again when there was any dispute with regard to the boundary or other jurisdiction between two Native States the British policy rested on two well defined principles. Firstly, when the dispute was between a bigger and a smaller State, the British Government was inclined to give their verdict in favour of the latter as far as possible. Secondly, when there was a dispute between two States, ruled by Hindu and Muslim respectively, the decision of the British Government in a lesser or a greater degree favoured the latter. This policy of the British Government was a corollary of one which was followed by them in British India.

The Zortalbi dispute between Baroda and Junagadh revolved round a group of 22 villages said to be formerly of the Jaitpur Taluka in Kathiawar, on which Junagadh claimed the right to levy Zortalbi, a kind of tax. This was disputed by Baroda Government. Col. Lester was appointed as a Commissioner to settle disputes between Junagadh and Baroda by the Government of Bombay in 1867. He decided the question in Junagadh's favour, but this decision was

reversed by Bombay Government later on, when Baroda represented. Again on Junagadh's appeal to the Secretary of State for India, Lord Salisbury reversed the decision of the Bombay Government and upheld Col. Lester's decision. This indecision on the part of British Government was a marked feature of this dispute. Even on Baroda Government's appeal to reconsider the case, the then Secretary of State Lord Cranbrook, who had succeeded Lord Salisbury due to the change of Ministry in England, did not think it necessary to interfere with the decision arrived at by his predecessor and thus the case was wound up.<sup>1</sup>

## (2) Prachi and Prabhas Pattan

The next dispute related to Prachi and Prabhas Pattan which were two places of religious veneration on the part of the Hindus in Kathiawar. Pattan was the name of one of the Mahals of Junagadh in Kathiawar. It was called Prabhas Pattan from its having been the seat of the Prabhas Kshetra.<sup>2</sup> It has been sometimes called Somnath Pattan<sup>3</sup> on account of ancient temple of Somnath Mahadev of historic fame standing there upto the present day, though it was in ruins till recently.

The name Prachi was collectively given to the river Saraswati, the Kund (a sacred bathing place in the vicinity of the temple) and Madhavraiiji (the name of lord Kirshna). Prachi Kund about 15 miles east of Pattan was situated on the banks of Saraswati at the point where this river took a turn towards the east and hence was called Prachi (The East).<sup>4</sup>

Pilgrims from Kathiawar, Gujarat and othe parts of India went to Prachi for pilgrimage, which was not considered complete unless both Prachi and the temple of Somnath were visited.

In the year 1813, an arrangement was entered into by Vithalrao

1. H. P. O. "Junagadh Zortalbi Claim", Selection No. V. Pp. 1-44
2. H.P.O. "Disputes Relating to Prachi etc.", Selection No. XXVIII p. 144.
3. *Ibid.*, p. 550.
4. *Ibid.* p. 551. The description of Prachi from Campbell's Gazetteer, Vol. VII, p. 630.

Dewaji with Junagadh State, with the cognisance of the British Government, in which among other things it was agreed that the temple of Somnath Pattan, being a sacred Hindu Shrine, should be put under the protection of a Hindu ruler.<sup>1</sup>

The levying of tax from pilgrims was thus peremptorily stopped by the above agreement, and things presumably went on smoothly till December 1830, when the first complaint of a tax having been levied from the pilgrims by Junagadh came up before Baroda Government. The tax was returned on protest from Baroda. However, it had been subsequently exacted on various occasions, as can be seen from the vernacular correspondence on the subject and returned to the parties through the Gaekwad's officials at Amreli.

In the year 1866, Junagadh for the first time remonstrated against the Gaekwad's officials calling Prabhas Kshetra as "પ્રહીનુ" (which meant belonging to Baroda) and the Assistant Resident, Amreli, interdicted these officials from adopting the style.<sup>2</sup>

With regard to the refund of the tax the Junagadh Darbar assumed an attitude not only of evading, but of protesting. He argued that the tax levied was not a pilgrim tax but a *chilo* (transit due) when the claim for refund<sup>3</sup> of tax to one Sadashiv Bawa was made. Col. Anderson, Political Agent Kathiawar viewed the levy of the tax as one for protecting the lives and property of the pilgrims.<sup>4</sup> The Political Agency tabulated certain figures to show that the tax levied by Junagadh was mainly for the maintenance of medical and police help to pilgrims, but Col. Jack son, Assistant Agent to the Governor-General at Baroda remarked the spirit of the arrangement of 1813 was thereby (levy of tax) was defeated<sup>5</sup> and suggested that the early settlement of the dispute between Amreli and Junagadh was very desirable and to prevent any unseemly quarrel in future, the following should be decided :—

- (1) Have the Baroda officials any *right* to be exempted from the imposition by Junagadh of new taxes at Pattan and

1. *Ibid.*, p. 118.

2. *Ibid.*, p. 35.

3. *Ibid.*, p. 32.

4. *Ibid.*, p. 45.

5. *Ibid.*, p. 84.



Prachi ?

- (2) If they have any right how much of it is founded on the Kalambandi of 1813 and how much on old custom ?
- (3) What authority has the Gaekwad in Prachi ?<sup>1</sup>

The question was complicated by complaints of sacrilegious acts committed by Mahomedans in Prabhas Pattan and lodged with Baroda Government by the Hindus of Junagadh from time to time. Baroda Government in its letter to the Resident desired that officers from both sides should investigate the cases, but Junagadh ignored the suggestion.

Meanwhile Bombay Government's decision<sup>2</sup> favouring Junagadh was upheld by the Government of India. It intimated Baroda Darbar that official advocacy of the cause of the Hindu subject of Junagadh by Baroda could not be recognised. However, the question did not come to any finality till 1892, when the Residency communicated the substance of the Resolution of the Government of Bombay whereby it was declared that Baroda could not interfere in the dominions and possessions of the Junagadh State, and that "Prachi Kund and Prabhas Pattan were within these dominions and subject to the sovereignty of Junagadh. Neither as part of Amreli nor Kodinar can the Baroda Darbar claim these localities as under its jurisdiction or sovereignty."<sup>3</sup> The Resident's letter also reminded Baroda Government, Elphinstone's words that the conduct of the Junagadh State, in respect to the treatment of its Hindu subjects at Prabhas Pattan was no concern of the Gaekwad unless the British called for his aid.<sup>4</sup>

Subsequent appeal of Baroda to reopen this case failed in 1893.<sup>5</sup>

One of the offshoots of this case was the distinct method of

1. See A.A.G.G.'s Letter No. 245 dt. 10th Oct. 1885. Selection No. XXXVII, p. 105.
2. Selection No. XXVIII, p. 140
3. *Ibid.*, p. 12.
4. *Ibid.*, p. 522.
5. *Ibid.*, Vide Letters No. 5344 dt. 13th March 1893 ; p. 549 ; No. 8842 dt. 11th July 1896, p. 677.

sending the memorials and form of appeals to the Secretary of State, laid down by the Government of India. The Baroda Government was informed that in future the appeals must be in *proper memorial form*<sup>1</sup> and signed by the Gaekwad himself on each sheet i.e. each leaf, without which appeals to that authority would not be forwarded.

There was still another phase of this dispute with Junagadh. This related to the claim of Gaekwad's Government to possess a right to appoint a worshipper to Somnath Mahadeo in Prabhas Pattan. This too was contended by Junagadh State. When the matter was referred to Government of India, they agreeing with Government of Bombay, held that the claim of Baroda Government to have a voice in the patronage of the holy places at Pattan in virtue of the agreement of 1813, might be recognised, but that the claim under controversy being one related to private rights and property, should be established through the Courts of the Junagadh State.<sup>2</sup>

When the Resident was, requested to submit the matter again to Government for reconsideration, he refused to do so. Thereafter the Legal Department of Baroda Government too did not see any point in raising this question again and the case was struck off from the file.

### (3) The Gheer Boundary Case

This was a case of territorial and boundary dispute between the States of Baroda and Junagadh.

The disputed tract comprised the portion of the mountainous region called the Gheer in Kathiawar.

The land in dispute was about 300 square miles.<sup>3</sup>

This case was decided by Col. J. F. Lester, Commissioner for Boundary Settlements between Baroda and Junagadh States, in 1870.

The disputed tract was surrounded by the Baroda paraganahs of Dhari and Danturwar (north) and Kodinar (south), and the Junagadh paraganahs of Cheylra (west) and Oonah (south-east).

1. *Ibid*, p. 616.

2. H.P.O. From a Representation dated 15-9-12, Pp. 39-40

3. H.P.O. Selection No. IX, 'Gheer Case'. p. 266. The following account has been largely based on this Selection.

Jungadh claimed the tract in dispute as belonging to its paraganahs of Cheylra and Oonah. Baroda claimed it as belonging to its paraganahs of Dhari, Danturwar, and Kodinar.

The case could be divided into two parts :—

- (1) The case of Kathiawari Gheer
- (2) The case of Kodinari Gheer

The portion of the Gheer claimed as belonging to the paraganahs of Dhari and Danturwar was called by Col. Lester the Kathiawari Gheer.

The Kodinari Gheer was that portion of the tract in dispute which was claimed by Baroda as forming part of the Baroda paraganah of Kodinar.<sup>1</sup> Both Kodinar and Jungadh were in Sorath one of the ten parts into which the Kathiawar peninsula was divided.

The paraganahs of Dhari and Danturwar were in that division of the Kathiawar peninsula which was called Kathiawar proper or simply Kathiawar. The Gheer claimed by the paraganahs of Dhari and Danturwar was claimed as being situated in this division, namely, in Kathiawar.

The portions of the paraganahs of Dhari and Danturwar in this dispute had been formed of the possessions of the Kathy Girassias of Surrusia, Cheehai, and Danturwar.<sup>2</sup> The question then for settlement was not so much whether this or that village, or neys, Chabitat of Shepherds within that area, belonged to Jungadh or to Baroda, and whether that large tract of country which Baroda called the 'Kathiawari Gheer' was wholly or in part, in Kathiawar proper, whether it was so at the date of Col. Walker's settlement, and whether it did actually belonged in various proportions to the Girassias above named."<sup>3</sup>

1. *Ibid.*

2. H.P.O. Selection No. IX, p. 263.

3. *Ibid.*

Thus was raised the question whether there was any Gheer in Kathiawar or not, for, it was observed, if there was no Gheer in Kathiawar proper, the paraganahs of Dhari and Danturwar, which were in that division of the Kathiawar peninsula could have no Gheer.

The whole of Col. Lester's decision hinged on this issue only and to this issue Baroda Government took strong objection and submitted that the issue raised by Col. Lester did not meet the requirements of the case, in as much as, it involved a consideration of what were the exact definitions of Sorath and Kathiawar, and not of the rights of the parties as actually proved by evidence, as also whether the same be situated in the so called division of Sorath or of Kathiawar. Moreover, Col. Lester was influenced, the Baroda Government stated, in dealing with the whole case by a preformed and erroneous opinion, though he no doubt, believed it to be sound.<sup>1</sup>

Col. Lester decided the issue he had raised, in the negative. He decided that there was no Gheer in Kathiawar proper, that all the Gheer was in Sorath, and that Sorath being only a synonym for Junagadh, all the Gheer belonged to Junagadh or formed a portion of the territory of that State.<sup>2</sup>

With regard to Kodinari Gheer, Col. Lester had divided the area between Eastern and Western quadrilateral and gave judgement on the evidence into two parts.

With regard to Eastern quadrilateral he decided, that "such places within it, as have been actually in the possession of Baroda since 1838-40, it would be inexpedient now to call on Baroda to give up. For though they were in Junagadh territory, yet Junagadh derived no advantage from them. Baroda on the other hand, has done much for them, by populating them and bringing the land under cultivation. A generation has sprung up at these places who have learnt to consider themselves subject of Baroda.

"My decision therefore is that such places shall continue under

1. *Ibid.*

2. *Ibid.*, p. 270.

Baroda on the Government of that State agreeing to pay Junagadh a fitting compensation for the loss."<sup>1</sup>

The similar decision was pronounced for the Western quadrilateral too. The decision took the Government of Baroda by surprise as it transferred to the State of Junagadh bodily a large tract of country, which upto that date had known no other master than the Gaekwad.<sup>2</sup> It challenged the decision on various grounds.

It felt that the condition, that the decision of the Commissioner should be final was violated, as a decision passed by Col. Rigby in 1864 on a part of the case was set aside by Col. Lester.

*Secondly*, This Gheer case involved a very large tract of territory, that it was purely a judicial case between party and party, there being nothing of a political nature in it.

*Thirdly*, the delay in submitting the representation for reconsideration nearly after thirteen years of the date of announcement of the decision of Col. Lester was ascribed to ignorance of English language on part of Maharaja Khanderao Gaekwad's officers as well as to short and troublous reign of his successor Malharao Gaekwad.

*Fourthly*, it was pointed out that Col. Lester had attached undue weight to a stray sentence which occurred in a general report which Col. Walker made in 1808, after a short sojourn in Kathiawar. The sentence referred to was "The large range of mountains in Sorath is called Gheer." It was believed that Col. Lester had erred in concluding from this casual sentence that the whole mountainous tract in dispute belonged to Junagadh. Moreover, it was pointed out that Col. Lester had erred in considering as useless the Report of Col. Jacob of 1842, and the map attached to it, both of which furnished important evidence on the subject matter of dispute.

*Fifthly*, Baroda Government was surprised to find that Col. Lester had taken upon himself the task of criticising the evidence of Baroda, instead of calling upon Junagadh to rebut or controvert it.

Baroda Government's request for reconsideration of decision

1. *Ibid.*, Pp. 168-169.

2. *Ibid.*, see their Letter dated 22nd March 1883. p. 276.



was, however, turned down by the Government of India. They then sent a Memorial to the Secretary of State, on 3rd April 1886. The reply came on 9th November 1888.<sup>1</sup> The decision of the Secretary of State for India was also 'not to disturb Col. Lester's award.'

### (c) Extradition

As early as January 1876, that Raja Sir T. Madhav Rao took up the question for consideration which related to such an important branch of jurisdiction of a State as extradition. In this question there did not exist any specific procedure for dealing cases coming under it, and much needless complications had made the day-to-day Government of the State difficult.

The question as stated by Sir Madhav Rao was very simple one, and nothing more had to be done in the matter except laying down specific procedure for dealing with cases comprising under its heading according to certain accepted laws and regulations, because a specific provision in the Treaty dated 6th November 1817 existed.<sup>2</sup>

It only remained for Sir Madhav Rao to put down certain cardinal principles for the acceptance of the British Government, that might facilitate the course of action while keeping in mind the provision in the Treaty. He hoped that the Government of India would be pleased to accord to Baroda in all such matters the most liberal consideration which it might offer to any Native State.<sup>3</sup>

In this regard mainly three points had to be considered :—

- (a) Of which Government the Criminal was the subject ?
- (b) In which territory was the offence committed ?
- (c) In which territory was the Criminal a fugitive from justice ?

For all possible cases arising out of the consideration of above three principles, when applied to the British as well as Baroda Government, Sir Madhav Rao prepared a Tabular Statement reproduced below :—

1. *Ibid.*, p. 617.

2. Vide Article 9, Aitchison's Treaties, Vol. 6, Ed: 5., p. 357.

3. H.P.O. "Memo on Extradition", p. 1.

Tabular Statement<sup>1</sup>

No.	Of which Govern- ment Criminal Subject	In which territory offence commit- ted.	In which territory Criminal fugitive	Remarks.
1.	British	British	Baroda.	} In these cases the British Government demands extradition from Baroda territory.
2.	Baroda	British	Baroda.	
3.	Baroda	Baroda	British	} In these cases Baroda demands extradition from British Territory.
4.	British	Baroda	British	
5.	Baroda	British	British	} In these cases the criminal being in the territory in which the offence was committed no demand for extradition can arise.
6.	British	Baroda	Baroda	
7.	Baroda	Baroda	Baroda	} These cases may be struck out as no question of jurisdiction can possibly arise therein.
8.	British	British	British	

The question was how to deal with them and the Dewan had to do it without letting the British Government feel that he was questioning their Paramountcy. He therefore judiciously enumerated certain principles. Firstly he was of the opinion that whatever the differences in the constitution of the two States, the criminal:

1. *Ibid.*, p. 3.

should not be enabled to benefit by such. The principle applied here with particular and unusual force, because the British provinces and the Baroda territories were not extensive blocks touching only at a distant frontier line. but were greatly intermixed and were also provided with the most rapid means of inter-communication, by which criminals were enabled most easily to pass from one territory into the other.<sup>1</sup> The fact that almost in each important Native State there were exclusive areas of land in the heart of it or in the vicinity of its territory, that were occupied either for Railway or Cantonment were British jurisdiction was retained, made this an important principle. Secondly when a Criminal was fugitive in a territory which was not the scene of his offence, he should be remitted to the territory which was the scene of his offence for the purpose of preliminary enquiry and afterwards for trial.<sup>2</sup>

Thirdly in giving effect to the foregoing principles, precautions should be taken to prevent the subject of one Government, suffering manifest injustice on the part of the other, and precautions should also be taken to prevent preponderant inconvenience to the Governments themselves.<sup>3</sup>

These were such plain and primary principles that no more satisfactory solution could have been evolved, and these were thus accepted by the British Government, although some misunderstanding with regard to the interpretation and subsequent application of the principles appears to have arisen between two Governments.

In the early part of this century, Baroda Government demonstrated that by the Treaty of 1817 complete reciprocity of procedure in extradition matter was meant. But in practice which had grown up around the settlement, this reciprocity was not observed. To cite Baroda had to furnish a *Prima facie* case in support of every extradition demand made by it, whereas *Prima facie* cases were supplied to it only when the extradition of a Baroda subject was asked from it. In other cases only a certificate that a *prima facie* case existed against a particular offender was supplied

1. *Ibid.* Pp. 4.

2. *Ibid.*

3. *Ibid.*

to it, and the State had to surrender the offender on such a certificate. It was suggested by the Baroda Government that the arrangement might be the same in all classes of cases. This suggestion, however did not affect the settlement itself which formed the basis of the relation between two Governments in matters of extradition, up to 1920 and thus many pinpricks were removed.

CHAPTER 5  
**MILITARY MATTERS**  
(a) The Subsidiary Troops

Origin and Nature

Maharaja Govindrao Gaekwad died in September 1807, and was succeeded by his eldest son Maharaja Anandrao. The latter was of weak mind and the powers of the State were usurped by his illegitimate half brother Kanoji. The usurper was, however, deposed by a party headed by Raoji Appaji, the Minister of Govindrao. But his cause was espoused by Malharrao, Jagirdar of Kadi, cousin of Govindrao. Raoji Appaji, on behalf of Maharaja Anandrao, solicited the assistance of the East India Company against Malharrao which the Company's Government consented to give. In connection with the arrangements made at the time, the Baroda Government agreed to receive from the Company a subsidiary force of 2000 infantry and one unit of combined European and Indian Artillery—the whole then costing Rs. 65,000 a month i.e. Rs. 7,80,000 a year. This happened in 1802. The Baroda Government also agreed to assign at their convenience landed *Jaidad* or funds to cover the expenses in full from such part of Baroda territory as were to be fixed on in view to the greatest convenience of both parties.<sup>1</sup> In pursuance of this Convention, an arrangement was entered into and a bond executed on the 6th of June 1802, providing for the assignment of a cash jaidad equal to Rs. 50,000 a year from the villages of Nadiad and for a cash payment of Rs. 730,000 within a year.<sup>2</sup>

In February 1803, the paraganas of Dholka, Nadiad, and Vijapur and the Tappa or Circle of villages of Kadi contiguous to Vijapur, yielding altogether a net revenue of Rs. 7,80,000 were ceded

1. Article 2 of the Articles of Convention dated 15th March 1802, Aitchison's Treaties, Vol. VIII, p. 32. This and other details that follow in this section are abstracted from Aitchison's Treaties Vols. VII and VIII.

2. A.T. Vol. VIII, Pp. 34 and 44. Exchanged in 1817 for Kapadwanj, Bhalej, Kadod etc.



for the expenses of the above subsidiary force.<sup>1</sup> From the Sanads for these Talukas, etc. granted at the time, it appears that the cession was not of a permanent nature. In the month of June following, the subsidiary force was increased by another 1000 sepoys, and in part payment of the expenses occasioned by that increase, the paraganas of Matar and Modha were ceded<sup>2</sup> and the receipts from the customs of the Kimkatodara circle were assigned. The revenues of these paraganas together with the assignment of the customs amounted to Rs 2,90,000. In addition to this a draft (warrat) of one lakh of Rupees in cash on Kathiawar Tribute was agreed to be given every year. The total cost of the augmented force thus came to Rs. 11,70 000.

In the year 1805, a Definitive Treaty of general defensive alliance was concluded between the Baroda Government and the East India Company by which all former engagements, were consolidated. By this treaty, the Gaekwad in accordance with the former engagements agreed to receive and the East India Company to furnish a permanent subsidiary force of not less than 3,000 regular infantry and one company of European artillery and two companies of Gun-Laskars with the necessary ordnance and war-like stores and ammunition which force was to be stationed in the territories of the Baroda State. In order "to provide the regular payment of the whole expense of the subsidiary force," Anandrao Gaekwad confirmed the cessions of districts and assignments of funds already made by him. The net revenues of the territories ceded together with the cash assignments amounted, as before, to Rs. 11,70,000- the sum mentioned above. A list called "Schedule A" of the districts ceded and funds assigned was appended to the Treaty.<sup>3</sup>

In 1808, it was found that the actual realisations from the districts enumerated in the Schedule fell short by Rs. 1,76,168-15-0. In order to make good this deficit, further assignments in cash

1. For this and other details see A.T. Pp. 58-62.

2. This meant the customs and salt revenue of the Mahals of Olpad, Ankaleshwar and Hansot belonging to the Peshwa (afterwards to the British Government) and of Vasrai, Galha, Variav and Tadkeshwar belonging to the Gaekwad. Tadkeshwar was ceded to the East India Company.

3. *Ibid.*, p. 67.

and lands yielding the above mentioned sum annually were made.<sup>1</sup>

In 1812, a proposal was put forward by the Bombay Government, "to restore to the Gaekwad in consideration of the payments of upwards of a crore of rupees the territories ceded for the subsidy and to farm to him the districts acquired under the treaty of Bassein, the engagements regarding the subsidiary force remaining otherwise intact." The proposal did not, however, meet with the sanction of the supreme Central Government.<sup>2</sup>

In June 1817, the Peshwa as the result of circumstances, which it is needless to mention, entered into a treaty with the East India Company, by which *inter alia* he renounced all future claims against the Baroda State and agreed to compromise all past financial claims against Baroda for an annual sum of Rs. 4 lakhs—a payment which ceased with the overthrow of the Peshwa. He also agreed to give his territory in Gujarat subject to the city of Ahmedabad in perpetual farm to the Baroda Government for an annual rent of Rs. 4½ lakhs. The rest of his territory in Gujarat and his entire tribute in Kathiawar he ceded to the British Government in part payment of the expenses of the contingent of 5,000 horse and 300 foot which he had agreed by the treaty of Bassein to furnish for cooperating with the Poona subsidiary force in time of war.<sup>3</sup>

On the conclusion of this treaty, the Marquis of Hastings, then Governor General of India, proposed to make certain arrangements which would have had the result of securing to the Baroda State and the British Government the advantage of compact territory.<sup>4</sup>

The sanad for the perpetual grant of the farm of Ahmedabad to the Gaekwad was issued and sent from Poona on the 25th June 1817. On the same day the Government of Bombay, "began to consider if the Gaekwad, whose position had been so wonderfully improved and who had obtained without an effort the lion's share of the spoil should not be called upon to maintain a larger subsidiary

1. *Ibid.*, p. 69.

2. *Ibid.*, p. 67.

3. A. T. 5th edition, Vol. VII, Pp. 63, 64 and '66.

4. Hastings to Court of Directors, 4th Sept. 1817. East India Blue Book Huzur Cutchery No. 369 of 1818, p. 46.

force."<sup>1</sup> A passing thought occurred at this stage of development whether it was not a part of British tactics to press the Peshwa to pass on the Ahmedabad farm in perpetuity to the Gaekwad, one of his brethren contriving to snatch it away from the latter under the pretext of cession for the increase in subsidiary force. However, the Bombay Government proposed that an additional subsidy of two regiments of cavalry and a battalion of Native infantry, 1000 strong should be entertained. The Gaekwad ceding his tribute in Kathiawar. Fatehsingrao, who was at the time Regent for Maharaja Anandrao agreed to the increase of the subsidiary force and to its payment by territorial cession, though not by his surrender of his rights in the peninsula of Kathiawar—instead of which he offered to give in *Jaidad* all the rights just then acquired by the State by the perpetual lease of the Ahmedabad District provided the British paid the rent fixed on it.

This arrangement was carried out by a treaty entered into between the Gaekwad and the East India Company in November 1817 as a supplement to the Definitive Treaty of 1805 between the parties. The territories comprehended in the perpetual farm of Ahmedabad which were ceded by this treaty to the East India Company were shown in a list styled "Schedule B". In this manner after the treaty of 1817 the total strength of the Baroda Subsidiary Force stood at 4,000 infantry, 1,000 cavalry and one unit of European and Indian artillery with necessary ordnance and war-like stores and ammunition.

The total net revenue from the district ceded and the cash assignments made in 1805, 1808 and 1817 amounted at the time of the cession to Rs. 24,31,969.<sup>2</sup> A complete list of these cessions of territories is available in the Baroda archives. Their area was about 4,000 sq. miles and their population according to the then latest census, about 1½ millions. The cessions consist of the following territories and assignments :—

1. The whole of the present Kaira district with the exception of
  - (a) The Napad Tappa in Borsad ceded by the Peshwa by the treaty of Bassein in 1802, and.
  - (b) The Fort and Jagir village of Kaira granted in Inam

1. *Reply* p. 13.

2. *Ibid.*

- to the East India Company by the Gaekwad Government in 1803.
2. The whole of the present district of Ahmedabad with the exception of
    - (a) The Talukas of Dhandhuka, Chora, Ranpur and Goga ceded by the Peshwa by the treaty of Bassein in and
    - (b) Half the city of Ahmedabad with the Haveli and the Gaekwad's, Daskroi given by the Baroda Government in exchange for other territory, i.e. Dabhoi, Savli, Bahadarpur etc.
  3. Rangarghat in the Surat District.
  4. Kadod Tappa (about 30 villages) also in the Surat District.
  5. Kim Katodara Jakat Circle.

In article 4 of the Definitive treaty of 1805, it was stated that the subsidiary force would at all times be ready to execute services of importance such as the protection of the person of the ruler, his heirs and successors, the overawing and chastisement of the rebels and excitors of disturbance in his territories and the due corrections of his subjects or dependants who may withhold the payment of the state's just dues. One battalion of these forces or such a proportion of them as the performance of the foregoing services may be required was to proceed to Kathiawar when there might be a real necessity for it. In article 12 of the same treaty, it was agreed that should war unfortunately break out with any of the powers of India, with the reserve of a battalion of native infantry to remain near the person of the ruler of such proportion as might appear necessary for the security of Gujarat, the residue of the subsidiary force, with their ordnance and war-like stores and ammunition should be immediately put in motion for the purpose of opposing the enemy. By article 15 of the same treaty it was agreed that if disturbances broke out in East India Company's territories or districts bordering on those of the Baroda territory, the Baroda Government would consent to the employment of such a proportion of the subsidiary force as might be requisite to quell the disturbance. These provisions were repeated in the treaty of 1817 by which it was further agreed that—the Baroda Government should provide a contingent of 3,000 horse equipped according to their own custom to

cooperate with the subsidiary force when it took the field, and should place the whole of the military resources of the State at the disposal of the East India Company in times of emergency and that Baroda's claim to benefit by any future partition of territory acquired in foreign expeditions would be taken into consideration by the Company. The obligation to keep this contingent was, in 1881, commuted into an annual payment of 3½ lakhs. The subsidiary troops were thus meant, according to the Baroda Government,

- (1) for the protection of the Ruler's person,
- (2) for the security of the State,
- (3) for the security of British Indian districts bordering on those of the Baroda State,
- (4) for the purpose of opposing a common enemy in India.

On the 21st October 1830, an important change took place in the position of the subsidiary force. All the British troops in Gujarat were combined in the Northern Army and the "Subsidiary" as a separate command was abolished. For a time, the control of the General Commanding the Northern Division as regards the subsidiary force was confined to receiving returns and matters concerning the efficiency and discipline of the troops. No movement of any part of this force was to be made without the permission of the Resident at Baroda, who was to retain the same power over it wherever stationed, as before.<sup>1</sup> But later on, the force became completely merged in the British Indian Army, and no separate force was thereafter maintained for Baroda. Only a battalion of Indian Infantry about 800 strong was stationed in the cantonment at Baroda. Here we might note that for the location of the subsidiary force, a piece of ground about a mile distant from the city northwards was assigned (not ceded) in 1802. This place was till recently known as the Baroda Cantonment. One result of the amalgamation with the Indian Army had been that the force which had taken the place of the former Baroda subsidiary brigade had become liable to be sent out of India on war service like other portions of the Army of India. The force (if it could be identified) was not in the same position as the rest of the Indian Army and helped to fulfill its share of all the purposes for which the Indian

1. Wallace, p. 410.



Army was maintained.

In their origin and nature, there was no distinction between payments made by the States which were included in the budget of the Government of India under the general head "Tributes" and cessions of territories such as that made by Baroda. Both were payments for defence.

In this connection the case of Mysore State was cited by Baroda Government.<sup>1</sup>

It was an accident that in the case of Baroda money payment originally fixed was later on changed into cession of territory. The cash subsidy instituted by the above article was for the same purposes as the cession of territory by Baroda.

On the other hand, provision for payments of this nature by cession of territory was more burdensome than a cash payment of an equal amount to be annually made. This had been especially so in the case of Baroda.<sup>2</sup> The cessions were made purely for the expenses of a subsidiary force. The liability could have been equally well discharged by a cash payment. But the British Government asked for the territories because the possession of the districts was calculated to give "political ascendancy" to the East India Company in Gujarat. For the same reason the proposal made in 1811 by the Government of Bombay to restore the territories to Baroda was disallowed by the Supreme Government of Bengal. The district ceded by Baroda, were some of the richest in India—about 4000 sq. miles in area forming almost the whole of the Kaira district, the greater part of the Ahmedabad and half of the city of Ahmedabad and about 30 villages in the Surat District, besides the customs and salt revenue of the Baroda and British districts Gujarat between the Taptee and Narbada and the tribute of Bhavnagar.<sup>3</sup> As the result of the cession of these districts and the consequent arrangements, the Baroda State had been split up into scattered units situated in the midst of British Districts, and presented great difficulties and inconveniences of administration both to Baroda and British India and also frustrated the original

1. From a note on the subject, H.P.O. File No. 341/61.

2. *Ibid.*

3. *Ibid.*

intention of making the Baroda territories compact as stated above.<sup>1</sup>

The cessions were meant for the support of the following troops and for the arms and ammunition required for them :--

1. 4000 Infantry
2. 1000 Cavalry
3. 1 Battery of artillery
4. 1 Company of European Gunners
5. 3 Companies of Indian Gun laskars

At the time of their cession the net income of the districts etc. was Rs. 24,31 969 which was more than sufficient for the expenses of the above troops. They began to yield larger revenues than the above sum almost from the time of the cession. This had been the chief ground of complaint by Baroda in all the representations made to the British Government on this subject. Knowing full well that the territories already ceded will never be returned to them the Baroda Government began to represent for the recognition of two principles. First, the surplus resulting from the increased revenue should be restored to the Baroda Government and secondly, the equitable distribution of the burden of defence on all who were contributing for the purpose.<sup>2</sup> However, imperial considerations outweighed all those arguments.

#### (b) The Baroda Contingent

In the foregoing account of the subsidiary force a reference to contingent is already made. Its origin and its latter continuance with modified nature of work, and its releasing in consideration of an annual payment of 3½ lakhs of rupees is in itself an interesting story, but at the same time was a great financial burden on the Gaekwad's State and formed a subject of consistent complaint whenever the opportunity presented.

#### Duties

Article 8 of the 1817 treaty constituted this contingent. After the contingent was formed, it was required to proceed on active service with the subsidiary force in the Pindharee and the Maratha

1. *Ibid.*

2. *Ibid.*, Representation, Pp. 6-7

wars, 1818-19-20. The contingent rendered good services and helped the British Government in acquiring large portions of territories and although it was agreed in the aforesaid Article of the said Treaty that the claim of Baroda Government "to benefit by any future partition of territory acquired in foreign wars" would be considered, the claim was not allowed.<sup>1</sup>

After its return from Malwa, the contingent was divided into three bodies of 1000 each and sent to do duty in the Gaekwad's tributary districts. Article 8 of the treaty quoted above apparently gave the East India Company no right to the serving of this force (contingent) except where the subsidiary force could be employed. The Baroda Government was, however, quick to point out this. In 1820, however, the occasion for any employment of the contingent force ceased altogether, for in that year the Baroda Government undertook not to send any of its forces into the Tributary Mahals, for the collection of their tribute, which the British Government undertook to do for them, free of expense.

The contingent force instead of being then disbanded continued to be employed on police duties in the Tributary Mahals. The contingent was not intended for this sort of Administrative Civil work, and the Court of Directors too believed this.<sup>2</sup>

Thus its employment on police duties was a departure from the Treaty of 1817; and in due course of time the practice grew up of holding it available at all times for Police duty in the Tributary Mahals when not employed, with the subsidiary force, despite the express desire of the Court of Directors. In 1858, the East India Company requested Khanderao Gaekwad to ratify this practice and he seems to have agreed as follows :—

"When the contingent force is not required to go with the subsidiary force on service, then, in the same way as at present they do duty in the tributary Mahals in Gujarat and Kathiawar, they shall continue doing duty in the tributary Mahals as the British Government may require."<sup>3</sup>

1. *Ibid.*, p. 10.

2. Court of Directors to Bombay Government, 18th Oct. 1837, H.P.O. 'Contingent' Selection No. XIII, Pp. 270-271.

3. *Ibid.*

There was still another departure from the Treaty. The contingent force was agreed to be maintained "according to the custom of the Gaekwad Government." Its ideals of discipline and efficiency could not be fairly compared with those of the British Army; and moreover its employment on police work in distant Mahals was not calculated to enhance its efficiency. In 1830, however, the alleged inefficiency of the contingent was made a ground for special corrective action against the Baroda State. The State was called upon to render two thirds of the contingent cavalry efficient<sup>1</sup> and on failure to do so, lands yielding about Rs. 15,00,000<sup>2</sup> were sequestered and only restored on the Maharaja's agreeing to deposit Rs. 10,00,000 with the British Government. Further by way of fine, part of the revenues of Petlad was appropriated towards the maintenance of a new body of cavalry called the Gujarat Irregular Horse. These actions of the British Government were considered by Baroda administration a flagrant violation of the spirit and letter of the treaty engagements, but Baroda had no other go but to endure it without uttering a word.<sup>3</sup>

In 1841, by the arrangement with Sir James Carnac an annual payment of Rs. 3,00,000 was levied for this new (Robert's Risala) Gujarat Irregular Horse; and permission was given to reduce the contingent force at any time to 1,500 men to be employed for service in Kathiawar and other Tributary Mahals.<sup>4</sup>

The proceedings of 1858, when the services of the late Maharaja Khanderao on the occasion of the mutiny were rewarded, disclosed how the good intentions of the Home Government were frustrated by the officers on the spot.<sup>5</sup> The final picture that emerged and what the Secretary of State understood was that the Gaekwad's obligation only entailed on him the duty of maintaining a contingent force of 3000 men, of whom 1500 were for service in the Tributary Mahals when not employed with the subsidiary force. The conduct of the Gaekwad was approved of as fully meriting both the substantial and the honorary reward of the Morchhals

1. A. T. New Series, Vol. IV, p. 183 or Selection XIII, p. 79.

2. H. P. O. Selection XIII; Pp. 114-115.

3. *Ibid.*

4. *Ibid.*

5. H.P.O. File No. 341/61, Pp. 11-12, See Court of Director's despatch dt. 1st. Sept. 1858; Govt. of India's Letter dt. 8th Feb. 1859.

bestowed on him.<sup>1</sup> Yet when in 1878 this obligation to keep 1,500 men employed in the Tributary Mahals was commuted into an annual payment, the amount of Rs. 3½ lakhs was calculated on the basis of maintaining all the 3000 men of the Contingent Horse instead of 1,500 men for service on police duties in the Tributary Mahals. In 1878, another Treaty was thought necessary when it was proposed to disband the contingent and to commute the obligation into an annual monetary payment. While negotiating such a Treaty, Raja Sir T. Madhav Rao pleaded before the Government of India for adopting a liberal and generous course.<sup>2</sup> In his anxiety to meet the wishes of the Government of India as far as possible, with due regard to the rights and interests of the Baroda Government, he eventually agreed to the annual payment of Rs. 3½ lakhs ; but he entreated "His Excellency the Viceroy still to consider whether a permanent annual charge of 3½ lakhs of rupees on the Baroda State is not excessive with reference to the facts and circumstances which I have already submitted in the past correspondence."<sup>3</sup>

However, the Baroda Representation of 1918 declared that Raja Sir T. Madhav Rao occupied only a fiduciary position and he could not permanently impair the interests of the State by any such perpetual undertaking, not contemplated by the original Treaty.<sup>4</sup> It argued elaborately but it should be noted profitably that the policy of the British Government with regard to such a vital matter as army and defence was principally guided by the motive that troops should be so raised and maintained by Native States, under their (British) command, that they could be utilised not only for the defence of the Native States only or in India but could be used for the defence of the Commonwealth at any place and with this in mind the British Government did not lag behind or fear the loss of prestige resulting from non-observance of the treaty stipulations or taking such steps which might go against their express promises.

1. See Sec. of St.'s Letter No. 51 dt. 14th Oct. 1859, *Ibid.*, p. 12.

2. Selection XIII, p. 301.

3. *Ibid.* See his Letter No. 6463 dt. 29th June 1880, p. 313.

4. H.P.O. File No. 341/61, p. 13.



**(c) State Military and Police Forces****A. Military Forces**

In the sphere of internal administration the Baroda Government, though theoretically declared to be completely autonomous, laboured under a number of disabilities and restrictions not authorised by the treaty engagements but were sought, to be justified on the ground of the "General policy by which the Government of India are guided in such matters." The phrase could frequently be heard.

**Strength and Constitution of the Army**

The most important of these restrictions were with regard to military matters. The Rulers of Baroda were in the past free to determine at their pleasure the strength, constitution and equipment of the military forces, maintained by them for the preservation of internal order and for cooperating with the British Government in time of war. The predecessors of Sir Sayajirao Gaekwad III had exercised these powers freely. When in 1817, the British subsidiary force was increased and the State Contingent was organised in consonance with the terms of the supplement to the Definitive Treaty, the Government of Bombay had suggested to the Regent Fatehsinhrao Gaekwad that he was at liberty to reduce his own Army. However, this suggestion of the Bombay Government was objected too strongly by the Regent who declined any reduction on the ground that the personal interests of many of his leading subjects were at stake. The Bombay Government saw the force of this feeling and when in 1819 the Resident seeing the embarrassment of the State, proposed to reduce the annual expenditure of the army from Rs. 42,67,000 to Rs. 15,91,500 the Government of Bombay declined to sanction the proposal until they should be assured against the danger of disturbances from the disbanded troops.<sup>1</sup>

In 1820, the Governor of Bombay Mount Stuart Elphinstone, assured the Gaekwad that with regard to his internal affairs he would be entirely unrestrained, but as certain guaranteed debts still existed, the Resident was to be made acquainted with the plans for finance at the commencement of each year. He was to have access to the accounts if required and was to be consulted before any new

1. H.P.O. File No. 341/61, Part I, p. 14.

expenses of magnitude were incurred.<sup>1</sup> On the repayment of the guaranteed debts in 1832 this limited interference in financial matters, too, ceased altogether.

Since 1832, the Baroda Government had been free to regulate its army as it chose. Increases were made to the Army from time to time, but no intimation was ever given to the British Government. In 1847 when the Bombay Government asked for a statement showing the strength of the army, the Maharaja politely refused to supply the same and expressed regret that Baroda was treated like other petty states in calling for such a statement.<sup>2</sup> No further demand for information was repeated. It was significant and at the same time clear that the British Government accepted the position that the Baroda State had a right to regulate the strength of its forces and that the British Government need not under the then prevailing relations even ask for a statement for information.<sup>3</sup>

Until 1874 the State army and police were organised by the ruling Maharajas according to their own desire, and no exception appeared to have ever been taken to this course.<sup>4</sup> In 1875, after the deposition of Maharaja Malharrao, an assurance was conveyed, that "in conferring the Sovereignty of the Baroda State, no alteration will be made in the Treaty Engagements, which exist between British Government and the Gaekwad of Baroda."<sup>5</sup>

Things changed in 1881. It was decided by the Government of India to invest Sayajirao III with the powers of administration. The Agent to the Governor-General submitted for the approval of that Government that he should be authorised to advise the Maharaja that no increase or material alteration in the constitution of the force should be made without first consulting him.<sup>6</sup> The Government of India agreed with this suggestion.<sup>7</sup>

1. Vide his Letter dt. 3rd April, 1820. H.P.O. File No. 341/60, Part I.

2. *Ibid.*

3. *Ibid.*

4. H.P.O. File No. 341/61.

5. A.T. Vol. VIII, 4th edition: Baroda and Punjab, Pp. 97-98.

6. H.P.O. File No. 341/61, p. 15.

7. Govt. of India to A.G.G., Letter No. 4779 P. dt. 1st. June 1881, p. 16.

Baroda Government took a strong objection to this change stating that "this was clearly a violation of the undertaking of 1875"<sup>1</sup> In 1887, a portion of Baroda Military known as the Baroda Contingent was abolished and some of its men were absorbed into the Regular Army of the State. The Government of India also communicated that "the mounted force of the State will thus consist of 1,500 Regulars and 2000 Irregulars, being a total of 3,500."<sup>1</sup> This limit was also an innovation as Baroda Government thought which did not exist before.

The restriction regarding material change in the Constitution of the army was being interpreted by the British Government loosely and in harassing manner, as seen from the correspondence carried on between the two Governments. The interpretation was so strict that at times changes in the cut of the dress etc. of the irregular troops even were objected to, the conversion of the irregular force into the Police force was also not permitted and even elementary instruction in the drill was not allowed to be imparted to them. Even such a small change as the substitution of horse in place of bullock traction for the State Artillery was also not allowed by the Government of India. The results were not only that the Baroda troops lacked in adequate equipment and in efficiency but they lacked the very elements of awe-inspiring quality of the police, and they came to think of themselves as belonging to the neglected arm of the State service, and hence lost all *esprit-de-corps*. They even looked upon the State itself as lacking in prestige and authority, and their spirits dropped.<sup>2</sup>

#### B. Police Force

The Baroda Government was in the past, at liberty to regulate the strength of the Police forces of the State according to the exigencies of the Administration without any reference to the British Government. The Government of India, however, had laid down that their previous consent should be obtained before increasing the strength of the Armed Police. This disability, again did not exist in the terms of the treaties, and the Baroda Government was

1. H.P.O. File No. 341/61, Residency Letter No. 5391 dt. 16th June 1887, p. 15.
2. H.P.O. File No. 341/4,

getting apprehensive of the true intentions of the British Government as on one side they promised their adherence to the treaties and on the other the treaties were interpreted altogether in a different manner by them. It said, if such solemn engagements were allowed to be modified and rendered more rigid by onesided arrangements, conveyed only through the Resident's letter, one can easily understand how in course of time all the sanctity of old treaties was in danger of being dried up under the pressure of newly created onesided usage.<sup>1</sup> The Baroda Government submitted that the condition mentioned in 1881, was with reference only to the military forces of the State.<sup>2</sup> There was no condition or restriction as regards the police force.

However, in 1901, when the Baroda Government proposed to absorb some part of their irregular force into the police force, the Government of India took exception.<sup>3</sup>

Baroda Government was baffled at this view of the Government of India and it was not able to understand how the former claimed that they had the right to control the Police force of the Baroda State. When this was pointed out by the State on 3rd March 1906, the Government of India replied, "His Highness cannot be permitted to increase his armed Police force without first obtaining the permission of the Government of India, for this reason that the men of the armed Police are trained and disciplined and bear arms just as the regular forces of the State. To increase the armed Police force would be to increase the armed forces of the State, and this cannot be permitted without the express sanction of the Imperial Government."<sup>4</sup>

### C. Arms and Ammunition<sup>5</sup>

In former times there existed a State factory in Baroda for the manufacture of gun-powder. Since 1823 A. D. the necessary supply of cannon and musketry powder used, however, had to be obtained

1. *Ibid.*

2. Bound Volume, 'Military Matters' p. 16.

3. Residency Letter No. 19191, dt. 15th December, 1904, *Ibid.*, p. 17.

4. Residency Letter No. 12854 dt. 24th August 1906 *Ibid.*, p. 17.

5. Following details are obtained from a note on the subject, dated 15-9-12.



from the British Government. However the traders of the City and Mahals used to manufacture and sell gun powder to the public. In 1858, such private factories were ordered by the Baroda Government to be closed, and the manufacture of arms for the use of any person and the sale of gun powder and lead without permission was prohibited. In September 1858, the Resident inquired how many factories there were in Baroda territory for manufacturing gun powder, whether there was any objection to close the same, how much quantity of gun powder was consumed by the Sarkar and the public, and whether the State was willing to procure the necessary quantity from the British Government factory. The Baroda Government replied that they intended to manufacture gun powder in the State factory and requested the Resident to obtain from the British Government the new materials, such as salt petre and sulphur, and these materials were actually supplied. Meanwhile, the Resident intimated that the Government of Bombay were inclined to supply the gun powder from their factory and the State accepted the offer.<sup>1</sup> Since then ammunition, arms, clothing and accoutrements required for the use of the State troops were obtained from the British Arsenals at Bombay and Ahmedabad on payment. Sometimes, these articles were procured through the Darbar Agents in Bombay from England direct.

By agreeing to obtain from the British Arsenals arms, ammunition, military stores etc. the Baroda Government was of the view that it did not forego its right to manufacture the same in Baroda for the use of the troops or to order the same direct from England, when necessary. In 1878, Raja Sir T. Madhavrao requested the British Government to supply arms and ammunition at cost price and free of duty. The Government of India was prepared to accede to this request on the condition that the State did not procure such articles from any other quarter or manufacture them itself.<sup>2</sup> Baroda regarded this attitude as "clear disregard of a specific undertaking."<sup>3</sup> In course of time, this arrangement was extended to cover within its purview even swords, spears, etc. It was not only the State but

1. H.P.O. Bound Volume, Yadi No. 1478 dt. 12th Dec. 1859. p. 18.

2. *Ibid.* vide Representation of 15-9-1912.

3. *Ibid.*



the Maharaja and the members of his family also felt the pinches of the Indian Arms Act of 1878 when they too enjoyed a very limited exemption.<sup>1</sup>

#### D. Baroda Irregular Forces

While perusing the correspondence on the military matters of the Baroda Archives one will often come across the term Baroda Irregular Force. It appears that except the subsidiary force, all the State Army consisted of Irregular troops. In the initial stages even the Baroda contingent was also included in this Irregular Force. Before 1875 it had grown up without any definite plan and had become unwieldy, thus constituting a grave danger for the State as powerful Military Sirdars often wielded the sceptre whenever their demands were not met. It was a result of an absence of any definite and sound policy and the weakness of some of the Maharajas, who had to seek the support of the military for the preservation of their Gadi. Before Sir Richard Meade took over the administration of the State in 1875 as Agent to the Governor-General and Special Commissioner, Baroda, no accurate and trust worthy account of these large and costly establishments was in existence. It was he, who first of all collected full details about this force in the hope that with full details on this head before him, the Minister, in consultation with the Agent to the Governor-General would be able to devise some practical measures for the gradual reduction of some at least of the levies, or their absorption in the new Police arrangements, which were then under organisation, without hardship or injustice to the parties most interested and as far as possible, with their concurrence.<sup>2</sup>

To organise such an Irregular Force was a very tough job but the untiring perseverance of Raja Sir T. Madhavrao and the successive Dewans achieved it in due course of time successfully and the administration of the reformed force came under the control of the Departmental Agency.

1. *Ibid.*

2. Residency File No. 478.

## CHAPTER 6

### FINANCIAL AND ECONOMIC RELATIONSHIP

#### (a) Port and Salt rights

From this Chapter we enter on the series of discourse of some subjects which had more of an economic bearing but at the same time involved a vital question of 'Right'. This was of political nature which became major political issue. The first of this was the 'Port and Salt rights of the Baroda State.'

The 17th Article of the Definitive Treaty provided for a commercial treaty.<sup>1</sup>

The contemplated treaty was, however, never entered into. The Baroda Government had nevertheless, consented from time to time, to agree to such arrangements as the British Government suggested in order to safeguard their fiscal revenues or to protect their monopolies. In many of these, the fiscal interests of Baroda State were not altogether overlooked, and this was even admitted by the Baroda Government, but in some cases, as a result of the general policy pursued by the British Government since the acquisition of supremacy in British India, valuable rights exercised by Baroda Government prior to and long after their connection with the British Government, had been extinguished. The right of Baroda Government to establish Salt works and open new Ports in Baroda territory in Gujarat, was one such right.

By the Fourth Article of the Treaty of Bassein of 1802 the Peshwa ceded to the British Government for the maintenance of a subsidiary force all his territories and interests south of the Tapti including the customs of Prant Surat, the revenue of which had been Rs. 83,000.<sup>2</sup> He also ceded all his Mahals situated between the river Tapti and the Narbada with the exception of Olpad. This latter Mahal too became part of the British territory in 1818 on the

1. A T. Vol. 6, Ed. 5, p. 345.

2. This and the following details are to be found in H.P.O. Selection XV, 'Customs', Pp. 241-246.

overthrow of the Peshwa. By these cessions the British Government became entitled to derive customs revenue not only from a large portion of their own territories south of the Tapti, but also from the territories of the Baroda State south of the river, excluding the places comprised in the customs circle of Vyara. In 1803, the Baroda Government ceded the Jakat of the Kimkatodra Circle *i.e.* of the whole region between the Tapti and the Narbada whether subject to Baroda or to the British Government in part payment of the charges of the subsidiary force entertained by them. This cession was confirmed by the Definitive Treaty of 1805 between the Baroda Government and the East India Company. In the Vyara Circle south of the Tapti, including the Talukas of Bardoli and Valod which had been ceded by the Peshwa to the British Government, the Gaekwad continued to levy customs according to the terms of the Partition.<sup>1</sup>

This state of things continued upto the year 1846. In that year in pursuance of the provisions of Act 1 of 1838, the British Government abolished the land customs duties levied by them in the Baroda paraganas of Gandevi, Navsari, Teladi, and Maroli at the nakas of Hathuran (हथुरण) and Variav (वरिव) in Baroda territory north of Tapti (which nakas had been ceded to the British Government by the Gaekwad Government in 1803 as part of the item known as Jakat Kimkatodra). Subsequently in 1866 the British Government transferred to the Baroda State all their nakas in the Baroda paraganas south of the Tapti *viz.* the paraganas of Balesar, Timba, Mahuwa and Kamrej, together with the chowki at Kim, north of the river, in exchange of the Jakat Nakas till then maintained by Baroda Government in the British Talukas of Borsad, Anand, Bardoli and Valod. Subsequently in 1879, the British Government decided not to reopen any of the salt works situated in the Baroda territory in the region south of the Tapti.<sup>2</sup>

About the middle of the 19th Century, however, the origin of the anomalous arrangements was lost sight of and from the enjoyment of the British Government of rights of an unusual character in Baroda territory, adverse inferences commenced to be drawn. The rights, as claimed by the Baroda Government were erroneously

1. *Ibid.*, p. 239.

2. H.P.O. Selection No. XVI, 'Salt' Pp. 69.

supposed to be extra-territorial rights arising out of the authority formerly exercised by the Peshwa in his capacity as Head of the Maratha Empire. When, therefore, in 1855, the Baroda Government opened a port at Dabka on the Mahi river and contemplated the establishment of salt works at the same place, the Government of Bombay referred the matter to the Government of India, who judging from the existence of the above mentioned rights in Baroda territory, and without consulting the Baroda Government as to their origin, enunciated the position that the British Government as successors of the Peshwa had the power to permit or forbid the opening of ports or the establishment of salt works throughout Gujarat, and that therefore the Port and Salt works in question should be closed. The decision was confirmed in 1861 by the Secretary of State.<sup>1</sup>

The Gaekwad's first protest dated the 30th January 1860, was not forwarded by Resident to the higher authorities. The Gaekwad thereupon addressed a Khareeta dated the 26th September 1861<sup>2</sup> to the Government of Bombay in reply to which a Yadi was received informing him that he might manufacture salt at Dabka for the use of his Government but then he should bind himself not to open salt-works anywhere else.<sup>3</sup> This letter appears to have been written before the Secretary of State's despatch No. 53 dated the 8th April 1861 had reached the Government of Bombay through the proper channel and normal routine. For, three days afterwards, another Yadi was received by the Darbar from the Residency in which conditional permission given to open salt-works at Dabka was revoked, and it was stated that as a despatch dated 8th April 1861, confirming the decision of the Government of India, dated 31st May 1859, had been received from the Secretary of State for India, the Governor-General was not prepared to reopen the controversy relating to the manufacture of salt in Baroda territory.<sup>4</sup> The Baroda Darbar twice protested against the decision, but British authorities declined to reopen the question. It was said by the Baroda Government that neither Maharaja Khanderao nor his successor Maharaja Malharrao, however, felt satisfied with the decision, and

1. *Ibid.*, p. 23.

2. *Ibid.*, p. 24

3. *Ibid.*, p. 25.

4. *Ibid.*

no action was accordingly taken by either of them upon it, and no proclamation or other order prohibiting the manufacture of salt in Baroda territories was issued.<sup>1</sup>

Matters rested at this state till 1878, in which year Raja Sir T. Madhavrao, who was in charge of the administration of the States during the minority of Sir Sayajirao III, was called upon to take steps to make penal the manufacture and collection of salt in Baroda territories in Gujarat.<sup>2</sup> He doubted the authority of the British Government to make such a request, but was given to understand in unequivocal terms, that no discussion as to the merits of the claim of the British Government would be permitted. He, therefore, enacted the necessary rules as desired by the British Government.

#### (b) Kathiawar

The Baroda Government owned the Ports of Dwarka, Port Okha, Kodinar and Velan in Kathiawar.

In 1817, the Baroda Government entered into a reciprocal arrangement with the British Government under which trading and other vessels from the Ports of either Government were to be allowed to visit the Ports of the other without let or hindrance.<sup>3</sup> This arrangement ensured to the subjects of the Baroda Government the same freedom of commerce, navigation and transit in British India as the inhabitants of British India.

In 1838, when the British Government abolished all inland and transit duties throughout the Bombay Presidency they recognised the position that the trade from and to the Ports of the Baroda Government in Kathiawar by land was entitled to the same treatment in Kathiawar by land was entitled to the same treatment as the trade from and to British Ports by land and that they (the British Government) had the right to impose a cordon of land customs against the trade of the Baroda Ports.

In 1848, the British Government carried out another reform in the system of their customs administration under which they freed the trade by sea between the different provinces of British India

1. *Ibid.*, p. 26.

2. *Ibid.*, p. 22.

3. From a note on the subject, see *Reply*.



from any customs levies.<sup>1</sup> In 1865, for the proper carrying out of these reforms they offered to all maritime Indian States an arrangement by which in return for their (the States') agreeing to levy the same or higher import and export duties on the foreign trade of their ports they (the British Government) undertook to treat the ports of the States as British Indian Ports, or, in other words, exempt goods imported at or exported from British Indian Ports from or to the ports of the States from the levy of customs duties prescribed under the customs tariff of British India.<sup>2</sup> Only five States—Travancore, Cochin, Baroda, Bhavanagar and Cambay agreed to this arrangement at the time.<sup>3</sup> By this arrangement, the States agreeing to it surrendered a valuable sovereign right, viz. of levying lower duties at their ports than those levied by the Government of India at theirs. In return for this consideration the States were given the privilege of exemption of their foreign trade from duties at the ports or at the land frontiers of British India. Where such land frontier duties existed against the States which subscribed to the arrangement, they were withdrawn. There were no such duties against Baroda and there was, therefore, no question of their removal. This arrangement was favourable to the British Government and was designed to secure British ports from the competition of the State ports except so far as such competition should rest on natural or developed physical advantages.

In contravention of this arrangement, the Government of India imposed in 1903 a customs cordon known as the Viramgam Customs Line<sup>4</sup> against the whole of Kathiawar including the territory of the Baroda Government in the Peninsula. The protest of the Baroda Government that this action was against the terms of the engagement with them and they were being wrongly treated like other Kathiawar States with which there were no arrangements and which made no sacrifices in 1865, proved of no avail.

Ultimately the cordon was withdrawn on the State agreeing in 1917 to a subsidiary arrangement under which the rights acquired by Baroda under the Treaty of 1865 were reaffirmed and some other obligations were undertaken by the State.<sup>5</sup>

1. H.P.O. Selection XV, 'Customs'.

2. *Ibid.*

3. *Reply*, p. 45.

4. *Ibid.*, p. 46.

5. *Ibid.*

The rights and obligations of the Baroda Government under the engagement of 1865 and arrangement of 1917 were :—

1. Baroda was to levy at its ports the same duties as or higher duties than those at the British Ports on imports from or exports to foreign countries.
2. The trade from and to Baroda Ports was not liable to be taxed by land in British India.
3. It could levy any duties it liked on the trade to and from British India by sea or land (whether the goods are of foreign or Indian origin).
4. The trade to and from Baroda Ports was not liable to duties at the British Ports.
5. Baroda was entitled to administer its customs department without interference or supervision.
6. That so long as Baroda fulfilled its obligations, no pecuniary limit could be fixed to the customs revenue which the State could derive at its ports from the trade with foreign countries or with British India.<sup>1</sup>

In spite of these Treaty Provisions, the Government of India asked the Baroda State to surrender its customs administration or agree to its supervision by British authorities and to accept a limit to the customs revenue derived at its ports. As the State did not agree to this, the Viramgam customs line was reimposed. However, Baroda carried on its customs arrangements on the lines of the arrangements obtaining in British India and showed its readiness from time to time to take such steps as may be necessary to ensure that the legitimate interests of the British Government were safeguarded.

#### Question of Port Okha

The Baroda Government also submitted that at Port Okha (which was formerly known as the harbour of Beyt) it had constructed a pier 400 feet in length with berthing accommodation for two ocean-going steamers and an approach viaduct connecting the Pier

1. *Ibid.*

to the main land at Adatra opposite Beyt.<sup>1</sup> These improvements had cost a sum of nearly Rs. 30 lakhs and the State was committed to a further expenditure of Rs. 15 lakhs on the port and connected works. A railway had been built from the approach viaduct to the frontier of Okhamandal at Kuranga at a cost of Rs. 35 lakhs ; and with the concurrence of British Government, the State had advanced a sum of Rs. 40 lakhs more through a limited company in Bombay for the construction of the railway in Nawanagar connecting Kuranga with Jamnagar and so with the general railway system of India. All this large outlay exceeding a crore of rupees was however rendered infructuous by the action of the British Government.

#### Salt in Okhamandal and its Export

The district of Okhamandal in Kathiawar belonging to Baroda afforded natural facilities for the production of edible salt of a superior quality.<sup>2</sup> Before the British Government introduced their system of excise of salt in British India, this salt could be exported to any part of India including the territories of the British Government, but after the introduction of the excise system, the entry of this salt into British India or into other portions of Baroda territory was not allowed, and the export was in practice confined to places outside India. In 1887, in order to give effect to a decision arrived at during the minority of Sayajirao the III, an arrangement was made by the British Government with Baroda under which the export of salt to any places in British India or in foreign European settement in India was prohibited.<sup>3</sup> The Baroda Government considering this prohibition against the spirit of their engagements, pressed their request to be allowed to export salt to ports of British India in which it would find a profitable market.

After much correspondence, the Government of India had agreed to the salt being exported to Calcutta by sea only, on payment of the prescribed British excise duty, in the same manner as salt from foreign countries like Germany, Austria, Spain, Italy or Egypt was imported into Bengal. The salt was not allowed to be exported to other parts of India or to be exported to Calcutta by land.<sup>4</sup>

1. *Ibid.*

2. H.P.O. Selection XVI, 'Salt', p. 133.

3. *Ibid.*, p. 236, Article III.

4. *Reply*, p. 44.

Owing to these restrictions, the Baroda Government could not develop the resources of Okhamandal to their full capacity and the State lost revenue which it would otherwise have derived from royalty on salt exported.

The above referred restrictions and the prohibitions were placed owing to certain fears entertained by the Government of Bombay that the export would give facility to illicit trade, which would constitute a grave menace to Imperial interests, and that the cost of the preventive establishment which it would be necessary for their (Bombay) Government would be prohibitive.

Baroda Darbar dismissing the above fears of the Bombay Government as unfounded, stated that it was possible to adopt measures whereby the British Government could be assured of the levy of the full salt duty on the salt imported into British India, whether by rail or sea, and whereby any attempt at smuggling could be efficiently prevented. Again, if extra preventive establishment was rendered necessary, it was not a just ground to prevent the exercise of a legitimate right by a friendly neighbour, when the same commodity from foreign countries was allowed to be imported.<sup>1</sup>

But the real reason of the British Government for imposing restriction was to maintain their monopolistic stronghold with regard to such a vital commodity of daily use to the people from which they had such large revenue throughout the Indian sub-continent. And this vested interest prevented them to mete out such equitable treatment to the Native State keeping with the terms of treaty engagements.

### (c) Admiralty Jurisdiction

In connection with the claim of Baroda Government to establish salt-works and open new ports in Baroda territory in Gujarat, the Government of India decided in 1859 that the British Government as successors to Peshwa had an exclusive right of sovereignty over the foreshore upto high watermark in Baroda territory. This decision was concurred in by the Secretary of State in 1861. Till 1889, goods washed away on the Navsari coast, used

1. H.P.O. From a Baroda Representation on Salt in Okhamandal.

to be dealt with by the Court of the Baroda State, with occasional protests from British Authorities.<sup>1</sup> In that year, however, the question of jurisdiction over derelict goods was referred by the British Customs authorities to the Government of India who in 1891, decided once more, that the right of jurisdiction over derelict and other goods must be held to be vested in British Government. Thereupon, an exhaustive representation was made by Baroda Government in which it was conclusively shown that no such arbitrary rights as were alleged to have been exercised by the Peshwa, had ever been exercised by him over the foreshores of Baroda territory. The Government of India, after consulting the Secretary of State, communicated certain modification in their previous decision. They observed that "the British Government must, however, in the interest of India, as a whole, continue to exercise an unquestioned authority to prevent smuggling and offences against ships, to regulate sea-traffic to protect ports and customs revenue and to take charge of wrecks, as well as to permit or forbid the opening of ports in Baroda territory and to control salt-works. No such authority, could possibly be exercised by Baroda Darbar, who possess no International Status."<sup>2</sup>

This was one of the typical announcements of the prominent principles on which the British policy was based and brought into play to demonstrate their all round superior position when compared to that of the Indian Native State.

This decision, therefore, upset the decision of the Government of India given in 1891, on the question of jurisdiction over derelict goods. But the claim now urged of jurisdiction over Gujarat waters, was based on new grounds,—not on that of prescription and long acquiescence urged in 1861, but on the ground of Imperial policy and obligations. This was again made clear in 1903 when Baroda Government tried to show that their position in Kathiawar was different and that they had jurisdictional right over the islet of Pagar on the Okha Mandal coast.<sup>3</sup>

#### Bombay Government's Resolution

The dispute over Pagar involved many Coastal rights of

1. From a H.P.O. bound Volume. A note on the Subject.

2. H.P.O. From representation on the subject dated 15-9-12. Pp. 27-28.

3. H.P.O. File No. 207/145, p. 2.



Baroda Government. Sir Madhavrao later on, reported on it and Melvill in an elaborate letter placed all the facts of the case before the Bombay Government and the result was the October 1879 Resolution of the Government. The main aspects, briefly stated, of this resolution were :

(1) A tax called "Wallawa" was originally levied in return for protection against pirates. But as no such protection was now afforded by the Darbar the levy was no longer legitimate.

(2) The Gaekwad's claim on "Kol" or pass fee could be considered a legitimate import on ships belonging to British subjects or sailing in British waters.

(3) "Chhavni" or rent could be claimed by Baroda on vessels beached in British territory.

(4) The other dues were small exactions added to the above and must therefore, be rejected on the same grounds and finally,

(5) That it had been conclusively shown that the rights claimed by the Gaekwad *do not exist*, and being nonexistent, no compensation could be claimed.<sup>1</sup>

And finally they did not agree to Melvill's suggestion but proposed that the port dues which were abolished in 1859 should be reimposed at all the ports of the Purna, Ambika and Mewase rivers.

And the Bombay Government offered to collect port due themselves and pay half to Baroda on condition that the Darbar abolished the armari cesses of all kind on those rivers. Baroda Darbar did not agree with this suggestion. According to the Bombay Government these dues fetched a paltry sum of Rs. 67-8-0 in 1869, while Baroda account showed Rs. 8000/- in ten years ending in 1800. Ultimately the Bombay Government proposed to hand over the whole of the net proceeds of port dues collection instead of half upto a maximum of Rs. 1000. This had been refused by the Minister, Sir Madhavrao who demanded that the question be referred to the Government of India for final consideration.

It seemed, nevertheless, that the chief question and the one in which British Government was most interested was the levy by the Gaekwad of these cesses on the British boats and from British

1. See Govt. Resolution 5348 dt. 4th Oct. 1879. Residency File No.569.

subjects in British territory. It also raised the interesting issue whether "Wallawa" was of the nature of Tora Giras. What was this Tora Giras? There had been considerable difference of opinion on it among the British officials themselves. In one of the notes on the subject the Head Clerk of the Baroda Residency J.A. Reit thought that the British Government had treated it with utmost indifference. Melvill also compared the levy of "Wallawa" with Mandvi Tora Giras and saw justification in Sir Madhavrao's stand that if the right of Gaekwad to these levies were not accepted by the British Government, the latter Government as well cannot demand Mandvi Tora Giras from Baroda Government. However, opinions were recorded by Capt. G.E.H. Cates, Asstt. Agent to the Governor-General at Baroda and by the Agent to the Governor-General Col. E.S. Reynolds himself in 1892, which went against Reij's and Melvill's. Cates believed Tora Giras was blackmail paid for abstinence from plunder, also for protection and assistance and the opportunity, so to speak, for plunder still existed but instead the British Government afforded protection, maintained peace and order and while abstaining from plunder prevented others from doing so. "Walawa" on the other hand was a fee paid on account of the protection afforded by the warships of the Gaekwad to trading vessels against pirates. Such a fee was a very legitimate and proper impost and one which any Government could demand. Col. E.S. Reynold's remarks threw even greater light on the nature of Vol or Tora Giras, so well known in Gujarat. He said "Vol or Tora Giras was described by Melvill as a system of blackmail, established by the predatory Girassias and not infrequently the superior chiefs, which they levied from villages exposed to their incursions....It was generally a payment in order to induce Girassias to become industrious, and in pass fees (Kol) and beaching fees (Chhavni) saw no connection or analogy with any kind of blackmail." Moreover, in his view no similarity or analogy existed between the Wallawa cess and the Tora Giras. Thus Col. Reynolds upheld the Bombay Government's contention that as no longer the service was rendered by the Baroda Government of protecting the vessels, no right of such levies could be accepted. Col. Reynolds even questioned the legality of the right demanded by the State.<sup>1</sup> Such strong views strengthened Bombay Government's hands and it was so much

1. The Residency File No. 569 contains a discussion on this point.

satisfied with merits of its own case that Col. Reynold's letter of 1892 was never replied.

#### (d) Opium

Another question of importance between the two Governments viz. British and Baroda in the financial-cum-jurisdictional sphere was that of opium and its export. Considerations of British interests were too dominant and their monopoly of it and consequent large realisations from this commodity weighed to such an extent that they could not tolerate competition from any quarter and definitely not from an Indian Native State under their complete control.

Under the arrangement with the British Government, in 1878, it was agreed that the cultivation of poppy should be limited to the supply of licit demand, that is, the demand for Baroda grown opium for consumption within the Baroda territories and also the demand *as determined by Baroda Government*, for export to the scales at Ahmedabad.<sup>1</sup>

There was thus no restriction as regards the export trade in opium of Baroda. China was the biggest market of opium. To rationalise the consumption of opium in their country they started restricting its import and change of policy was necessitated.<sup>2</sup> The British Government was faced with difficulties. On one side there was an understanding with the Gaekwad in 1878 and on the other he was to be discouraged in growing and selling opium. It therefore created all sorts of handicaps for the State. First of all the Government of India desired that Baroda Government should curtail the area on which poppy was grown in their Kadi division.<sup>3</sup> Baroda Government protested and deliberations took place<sup>4</sup> and the result of these deliberations was that the Government of India finally decided that Baroda Government should be allotted 7% of the total assignment, subject to the conditions that this 7% was the maximum export permissible; that the actual export was not to exceed the amount of opium actually grown in Baroda territory less any quantity required for the consumption in the State and that any purchases

1. H.P.O. 'Opium', Vol. III, p. VII.

2. *Ibid.*, Vol. I, Sections A to E.

3. H.P.O. 'Opium', Vol. III, see Letter dt. 8th September 1908.

4. *Ibid.*, Pp. 48-58.

made by Baroda from Malwa were to be taken in reduction of the total figure assigned to Baroda.<sup>1</sup>

Thereafter the position of Baroda was rendered much worse by the passing of two Resolutions by the Government of India which doubled the pass duty on Baroda opium.<sup>2</sup> The Government of India further ruled that Baroda Government should bring their full consignment for the calendar year into Bombay before the 1st of August each year, and that, in future, they were not to be allowed to supplement any deficit due to dryage in the total number of chests intended for export.

On top of these, the Collector of Income tax, Bombay, issued a notice subjecting the profits of Baroda Government from the sale of Baroda opium for export to China to the payment of the British Income-tax at Bombay.<sup>3</sup>

As all these innovations were calculated to affect injuriously the opium revenue of Baroda Government, the latter entered a strong protest, with the result that the demand for the Income-tax was withdrawn and the Government of India agreed to place Baroda on the same footing as the Malwa States by sharing annually with Baroda Government both the excess Pass duty of Rs. 600 and the average amount realised from the sale of the right of export. British Government, however, demurred to extend the time limit for taking the consignments of Baroda opium to Bombay, as also to make any allowance for the loss by dryage of opium in transit.

In 1913 the export trade was abruptly stopped by Government.<sup>4</sup> In consequence of the international action of the British Government, a progressive decrease in the quantity of opium to be exported to China was being enforced since 1908 and the opium trade with China was to cease by the end of 1916. The Baroda Government were naturally anxious to secure some opium revenue in future by adopting other measures. It requested the Government of India to permit them to send or sell for export to non-China ports uncertificated opium on payment of the original pass duty of Rs. 600

1. *Ibid.*, Pp. 74-75

2. See Nos. 6785 and 6786 dt. 3rd November 1911, H.P.O. 'Opium', Vol. III, p. 105.

3. *Ibid.*, p. 121.

4. *Ibid.*, p. 169.

only.<sup>1</sup> The Resident informed Baroda Government in reply that Government regarded it was too late to consider their proposal that year, as they had decided to drop the question of the export of Malwa opium to non-China markets during 1912.<sup>2</sup> Thereupon Baroda Government asked him to move British Government to favourably consider their request when they took up the question again. But to the sore disappointment to Baroda this was never done.

### (e) Baroda Currency

Still other question of financial-cum-jurisdictional sphere where Baroda State stood to lose a great deal was the problem of Baroda currency rights.<sup>3</sup> Whatever Baroda could gain, whether from port or salt rights, or from armur cesses and derelict goods or from opium and currency, it could be done only with the concurrence of the British Government, as a *de facto* supreme power in India. Wherever British interests were at stake due to competition of any Indian Native State, the latter had to withdraw in favour of the British Government whether it liked it or not.

Before the British came on the Gujarat scene and even in the early years of their association with Gujarat, Gaekwad was more or less independent in his internal administration. He had the right to coin his own money and possessed full rights in respect of exchange and currency in the State. Baroda had its own silver and copper currency which circulated not only in the limits of the State but also in parts of the surrounding British districts of Broach, Kaira and Panch Mahals and in most Indian States in Rewakantha Agency including Raipipla and Chhota Udepur. Owing to the defective nature of the old Baroda currency, the rate of exchange between the British and the Baroda rupee fluctuated considerably and caused much detriment to the trade of the State with British India. In 1876, it was proposed to remedy this state of things by availing of the provisions of the Native Coinage Act of 1876 and to assimilate in a way the Baroda currency with that of British India. The proposals advanced at the time were set forth in detail in Raja Sir

1. *Ibid.*, p. 224.

2. *Ibid.*, p. 225.

3. This section is based on H.P.O. Selection—"Baroda Currency."



T. Madhavrao's Memorandum<sup>1</sup>. As the British Government declined to agree to the condition that they should make an annual payment to the Baroda Government in lieu of the profits of the coinage, the proposal was dropped for the time being. The question was revived in 1888, but with no better results.

The state of things became aggravated by the closing by the British Government of the British Indian mints to the free coinage of the British Indian rupee<sup>2</sup>. The rate of exchange between British and Baroda rupee began to fluctuate very considerably and adversely affected the trade of the State. In 1900 A.D. therefore, the Baroda Government by an arrangement with the British Government decided to substitute the British Indian silver currency for the Baroda currency for a period of not less than 50 years, reserving their right to reestablish the Baroda currency at the end of 50 years. The terms of the arrangement were set forth in detail in letter No. 33-5 dated 5th May 1900 from the officiating Resident at Baroda to the Minister of the Baroda State, and subsequent correspondence.<sup>3</sup> Under the arrangement the British Government minted and supplied the silver coins required for the substitution of the Babashai coinage of Baroda and undertook in effect to supply from time to time such further stocks of British Indian rupees as might be required for circulation in Baroda territory. Thereafter for a term of 50 years, and in consideration of their doing this, the Baroda Government agreed that the Babashai silver currency shall not be legal tender in the State for a term of 50 years, the period of 50 years expiring on the 12th February 1951.<sup>4</sup>

Under this arrangement, the British Government derived a considerable profit from the currency transactions in the State. Then there was the question regarding participation in the profits of the silver and nickle coinage of the Government of India, by Baroda Government. Even though the question of sharing profits resulting from the silver coinage adopted by the State in 1900 was still to be solved, Government of India introduced in 1919 another measure by

1. H.P.O. Selection "Baroda Currency" Pp. 17-36.

2. *Ibid.* p. 49.

3. *Ibid.* Part IV p. 2.

4. *Ibid.*

which nickle coinage were put in circulation. The Baroda Government were, however, quick to examine their position in the light of an Agreement of August 1900 by which they withdrew the Babashai silver coins from circulation in Baroda territory and substituted British silver coins instead. The Dewan Sir Manubhai Mehta reminded the British Government its obligations under the agreement of 1900 and maintained that Baroda was under no binding to accept the new subsidiary nickle coinage issued by the Government of India. In view of this the Dewan rather took a bold step. He asked for a fair share in the profit of the nickle coinage or supply the State with currency bearing the distinctive mark of the State sufficient for its need.<sup>1</sup>

The Government of India did not accede to the proposal of the Dewan and the question appears to have been kept on the dormant list by the Baroda Government to be taken up again when suitable opportunity occurred.

1. Dewan to Resident, 17th March 1922. H.P.O. Selection 'Baroda Currency' Part II p. 206.

## CHAPTER 7

## PROBLEMS RELATING TO THE RULER OF THE STATE

## (a) Deposition of Malharrao. Adoption of Sayajirao.

It has been stated elsewhere that Malharrao was deposed. As claimed by them, the British Government took this step in the larger interests of the State and people of Baroda.

But this created a new problem. The serious question that who should succeed to the vacant Gadi was immediately confronted because Malharrao had no legitimate heir to succeed him. While the inquiries of his complicity into Phayre poison case was going on he had secretly entered into a marriage with one Laxmibai, who later on gave birth to a son, but the British Government did not recognise the legitimacy of the marriage nor the right of succession of Laxmibai's son. Therefore, after the deposal of Malharrao and his subsequent deportation to Madras on the 22nd April 1875 under the surveillance of a European Medical Officer Dr. Seward, the problem of succession arose.<sup>1</sup>

## Two alternatives

There were two alternatives left to the administration. *Firstly*, they could accept one of the claimants at Baroda proper or *Secondly* ask the widow of late Khanderao Gaekwad—who was given an adoption Sanad, Rani Jamnabai to adopt some baby of her choice with the approval of the British Government.

Now from Baroda proper there were *three* claimants who had advanced their claims to the Gadi. They also claimed the direct descent in the line. They were :

- 1 Sadashivrao Gaekwad, age 30 years.
- 2 Ganpatrao Gaekwad, age 26 years.
- 3 Khanderao Gaekwad, age 22 years.

Sadashivrao Gaekwad was the son of Govindrao. This Govindrao was adopted by the widow of Fatehsinh, brother of

1. Gazetteer of the Baroda State Vol. 1 p. 603

Sayajirao the second.

Ganpatrao and Khanderao were real brothers and were sons of Gopalrao, brother of said Govindrao. Govindrao and Gopalrao were descendants of Maloji, brother of Pilajirao, who was the founder of the Gaekwad House. The reference to geneological tree will make the relationship clearer. Maloji, was the brother of Pilajirao. Therefore his descendants were collateral and not in line of succession. But as Govindrao was adopted by the widow of Fatehsinh, brother of Sayaji, the claimants had been brought into direct line giving his son claim to be regarded as nearest relative to Malharrao. Out of these three Sir Richard Meade considered Ganpatrao 'undoubtedly best.'<sup>1</sup>

Over and above these local claimants, there were other claimants, thirteen in all, claiming descent from Purtabrao, second son of Pilajirao. They resided in Khandesh. But the legitimacy of Purtabrao was questioned in Baroda. From this family of Gaekwads, persons of all ages could be found i. e. from 50 years to infancy.

With these two alternatives in front of them the British Government in deference to the wishes of Sir Richard Meade, the Special Commissioner at Baroda, ordered an inquiry into the claim of Purtabrao's family and their pretensions to legitimate descent from Pilajirao. The question was so urgent and important, rather emergent, as the Gadi was vacant, that speedy steps had to be taken to solve the issue and this was quite evident from the daily exchange of telegrams between Baroda Residency and the Government of India.

On a careful consideration of the circumstances under which Govindrao was adopted by Fatehsinh's widow, Sir Richard Meade was under no doubt that this adoption was never admitted by Sayajirao II and his sons to give him any claim to the succession.<sup>2</sup> On the strength of this opinion Meade, saw no reason why the British Government should not take on itself to make such an admission in favour of his son—especially as there were strong reasons against

1. Residency File No. 560. Much information in this Chapter has been drawn from this file.

2. *Ibid*



giving it—even if made—practical effect.<sup>1</sup> He said further, “having come to this conclusion, before I met Sadashivrao, I have from the first treated his pretensions to be regarded as the next in succession, in virtue of his father’s adoption as untenable, and have warned him that his claims would—as far as I was in a position to judge,—be held as merely those of a collateral relative of the Dynasty, filling the same position as his cousins Ganpatrao and Khanderao.”<sup>2</sup>

This opinion of his was responsible for his having conducted a speedy and a detailed enquiry into claims, of Purtabrao’s family.

He first of all caused an inquiry to be made on 12th April by the Nasik Magistrate and asked him to summon the Memorialists, who had preferred the claim on behalf of this family to the Government of India and ascertain what evidence they had to support the same. At the same time an enquiry by the Poona Magistrate at Pilajirao’s ancestral village in that district was also caused to be made. Meade was however, confident that claim of the descendants of Purtabrao would be established and that a person of fitting age might be found amongst them for selection ; only if time could be afforded for temporary inquiry. Meade also brought to the notice of the Governor of Bombay the necessity for immediate decision.

At this stage a new development occurred. The Governor of Bombay thought that the enquiry into the claim of Purtabrao’s family was impossible and that he was in favour of adoption by Jamnabai of infant son of Kamabai, Malharrao’s daughter, which with establishment of proper administration would be more acceptable than any selection by Government of India. Meade on this suggestion of the Governor of Bombay said that such an adoption would be without precedent and full of difficulty. “My own opinion is” he said, “if possible, time should be given for deciding claim of Purtabrao’s family, in view to selection from it, if legitimacy be established. If it were notified on removal of Malharrao that an adoption by Jamnabai from family of Gaekwad would be allowed, on completion of enquiry now in progress regarding surviving members, the delay would not cause mischief.” Moreover, he warned the Bombay Governor that “the delay is disappointing but I see no other prospect of finding a suitable person to succeed Malharrao.

1. Residency letter of 29th May 1875. *Ibid.*

2. *Ibid.*



Kamabai's son is a wretched child".<sup>1</sup> It was only on Sir Richard Meade's insistence and request that Bombay Government ultimately ordered full enquiry and all members of the family and proofs were ordered to be brought at Bombay at once. Meade also suggested that if legitimacy be established, selection of most promising boy aged from 10 to 14 be made and his adoption by Jamnabai under direction of Government of Bombay be effected. The Nasik Inquiry had a story of its own to tell. It examined various claims and variety of indigenous documents produced before it by members of Partab-rao's family and other Baroda claimants. It interviewed family priests of Gaekwad at Nasik, Trambak and Pandharpur, the holy places periodically visited by members of the Gaekwad family. It dabbled into their curious records of all types with a view to find out the legitimacy of Partabrao and his descendants. In several documents the name of Partabrao was found to be incorporated as the son of Pilajirao. The family priests also declared solemnly and unequivocally that according to the Hindu Code of Ethics only the names of legitimate children could find entry into their books. The Inquiry Commissioners got this and several other facts corroborated and submitted their report on 4th May 1875.<sup>2</sup> On the next day only Sir Richard Meade began to take steps for Jamnabai to adopt a boy of her choice from this Khandesh branch of the Gaekwad family. He also took measures to preserve law and order in the State.

Government of India however proceeded very cautiously on the course they had set their feet on. They asked for definite opinion of Sir Richard Meade over the Nasik Report, which now was a deciding factor. Sir Richard Meade was quite frank in his opinion. He knew that the Report was incomplete as it furnished no explanation of causes (1) of family remaining cut off from Baroda after Partabrao's death (2) of having no provision for its maintenance from Gaekwad and (3) of falling into the obscurity in which it had been for so long. The Khandesh family too appeared however, to have no further information on this subject than that given in their original petition. However on the other hand according to Meade the evidence adduced before the officers conducting the enquiry as

1. Resident's letter dt. 15th 16th. April 1875.

2. Residency File No. 560.

well as that obtained by them, wholly independently of the claimants themselves and the sources on which they relied seemed to furnish reasonably sufficient proof that Pilajirao had a legitimate son named Purtabrao, alias Tatiasaheb, and that the claimants who appeared before the enquiry were the lineal and legitimate descendants of the said Purtabrao and were entitled to the position they claimed as his representatives at the present time. Meade also had very high opinion of one of the officers conducting inquiry, Col. Etheridge, "whose experience in the examination of old sanads and other similar documents is great and who approached this enquiry with very reasonable suspicion of the truth of the claim." Etheridge wrote to him on its completion that "the result is to establish beyond doubt the legitimacy of Purtabrao and the whole line descending from him".

Sir Richard therefore had no doubt whatever that the conclusion arrived by the officer holding the enquiry was sound and just and only wished that some explanation could have been given on the points noticed above. His hands were further strengthened as Sir Madhavrao too held views on the case much as Meade's. To aid him further Jamnabai was most averse to the idea of adopting any of the Baroda claimants.<sup>1</sup>

In the meanwhile Government of India received the opinion of the Bombay Government on the subject. On the other hand the India Government also referred the question to Holkar for his opinion on the matter in hand. Their anxiety was intelligible. They did not want to rush. While the Bombay Government supported Sir Richard, the Holkar raised the possibility of tempering the family priests' record by illegitimate children themselves. Further search was therefore made to collect more information. After this inquiry Meade declared his conviction that Purtabrao must have been a legitimate son of Pilajirao.

Certain more information<sup>2</sup> also came forth at Baroda, (1) when the daughter of Maharaja Ganpatrao, who was married to the Kolhapur Chief, was proceeding to that place some 25 years ago, this Khandesh Gaekwad family pressed her to visit them,

1. Meade's message dt. 13th May 1875.

2. Residency Letter dated 29th May 1875.

which she did and stopped at their place and acknowledged them as relatives. (2) that when Ganpatrao visited Poona sometime afterwards, he sent for and entertained them and also acknowledged the relationship and (3) that both Khanderao and Malharrao contemplated making an adoption from the family and sent for some of its members to Baroda where they remained for several months on each occasion.

### Picture got clear

The picture of the whole situation then got pretty clear.

- (1) Though there was no evidence as to the separation of Purtabrao's family from Baroda Gaekwads, it was quite clear that the family for several years back had not been wholly unknown in Baroda, though certain persons—who had an interest in so doing—seemed to have endeavoured to discredit it on this as well as other points.
- (2) Both Sir Richard Meade and Sir Madhavrao considered the claim to have been quite sufficiently made out to warrant Government taking action on it and making a selection from amongst the youthful members of the family for adoption by Jamnabai to fill the vacant Gadi.
- (3) The Bombay Government, while observing that the inquiry had been *ex parte* one, had recorded its opinion that under the circumstances the conclusion arrived at by the Inquiry officers may be accepted.
- (4) The Sardars, to whom whole of the circumstances were most carefully explained by Meade had expressed their readiness to accept and abide by the Viceroy's decision in the case and only urged the speedy expedition of the question.
- (5) Great importance was attached by responsible persons to the selection of a minor, who could be trained up for the duties he would have hereafter to fulfil and during whose term of minority the reform of abuses could be carried out and the affairs of the State put in proper order.
- (6) The fact that Jamnabai was wholly opposed to adopting one of the local claimants, was earnestly desirous, as was reported, to adopt one of the boys of the Khandesh

family.

- (7) And lastly Meade's opinion unhesitatingly stated that the latter course was the most advantageous for the real interests of the State and people and his firm faith that when the present excited state of public feeling subsided, it would meet with general approval and support and would prove a success. Ultimately, therefore, the future of the state rather than the past became important. With this view the Government of India finally decided on 20th May that one of the boys from Khandesh family may be allowed to be adopted by Jamnabai.

This decision of the British Government was formally communicated to Maharani Jamnabai whose choice, with the concurrence of Meade fell on Gopalrao son of Kashirao, who was the eldest and perhaps most promising of the three. His name was changed to Sayajirao, and thus arrangements were on foot to install him on Gadi after the precedent of installation of Khanderao.

The Baroda Claimants were, however, much upset over the decision of the British Government and one of them, brother of Sadashivrao, out of disappointment shot himself to death; it was, however, said that his mind had long been unsound.

In this way very thorny and delicate problem was settled in the interests of Baroda. Thus one native boy, as happens in a fairy tale, came to Baroda and became a king overnight as it were by the sudden flick of destiny.

#### **(b) Minority Administration**

In April, 1875 Sir Richard Meade was appointed Governor General's Agent and Special Commissioner for Baroda and Sir Raja T. Madhavrao, K.C.S.I., who had successively held the post of Minister of Travancore and Indore and who was a man of great administrative experience, was appointed Dewan of Baroda State. Lord Northbrook sketched out to Sir Richard Meade the broad lines of the policy to be carried out (as regards the administration of the Baroda State after the adoption of Sayajirao by Jamnabai on 20th May) in a letter of the 22nd May 1875. The Viceroy hinted at the peculiar position of Baroda in relation with the British Government and advocated giving the British Government greater power to interfere if necessary with internal affairs than permitted



by mutual treaties. He also suggested establishment of a consultative council composed of the principal Sardars with a view to give them interest in the administration, but advised to get rid off corrupted and debauched hangers-on. Military reduction was another important thing on which he wrote.

However, on the top of everything the Viceroy said, "the first thing will be to establish the popularity of the New Government and to show that we are carrying for the real interest of the people, if Sir Madhavrao is the man I take him for, he ought to be able to put the conduct of the British Government in such a light as will ere long remove the unfavourable impression, which from whatever course it has been derived, has been circulated through the Press in Western India and partially elsewhere."<sup>1</sup>

The Administration Report for the year 1875-76 showed that the Dewan followed the Viceroy's instructions faithfully.<sup>2</sup> As regards the interference of the Government of India in the Administration, and the position of Jamnabai during the minority, some broad principles were agreed upon. These were settled and agreed to at a meeting at the Baroda place, on 15th September 1875, at which Maharani Jamnabai, Col. Sir R.J. Meade, K.C.S.I. Agent to the Governor General and Special Commissioner and Sir T. Madhavrao K.C.S.I., Dewan were present.<sup>3</sup>

The perusal of this note will convince anybody that it well defined the nature of the work of each of Maharani, the Dewan and the Agent to the Governor General and it also displayed the anxiety of the British Government that while the Administration should strictly remain native, necessary vigilance and supervision of the Agent to the Governor General over the conduct of the State affairs should not be relaxed. Major operations involving greater financial outlay strictly required Agent to the Governor General's attention and consent. Though Maharani was acknowledged as the head of the Palace department, she was required to lay open the

1. T.H. Thornton, General Sir Richard Meade and the Feudatory States of Central and Southern India Pp. 228.
2. Report on Administration of Baroda 1875-76 ; Paragraph 22, p. 20.
3. H.P.O. Notes on points discussed at Conference of Ruling Princes on 30th Oct., 1916. Pp. 39-42.



accounts of expenditure before the Minister whenever the latter required it. Military affairs were strictly to remain, though for some time, in the hands of the Agent to the Governor General the reason given being to lessen Minister's responsibility. Thus the financial and military affairs were virtually in the hands of the British Government. An all pervading influence of the British Government was thus noticeable in the conduct of the administration of the State during the minority period. It could also be seen that the education and the administrative and moral training of the minor Prince was also to be guided according to the plan drawn up by the Agent to the Governor General in consultation with the Maharani and Minister which he might deem good for the Prince and which he thought would equip him with the necessary power to deal with affairs of the State.<sup>1</sup>

Thus, it appeared that though the administration during the minority of the Ruler afforded a greater intervention in the internal affairs of the State by the British Government, at the same time it showed its beneficial effects in the efficiency of administration, prosperity of the State, eradication of some of the social evils, provision of justice to all and in such other sphere of life.

### (c) Sayajirao's Investiture

In the personal life of the new Gaekwad Sayajirao, after his adoption and installation to the Baroda Gadi, the most eventful year was that of 1881, when he was invested with full powers of the administration of his State on his attaining majority.

In the political life of the State also the 28th December 1881 will be remembered as turning point and a red letter day as after nearly six years of minority administration, during which many fateful decisions were taken regarding Baroda State, the state of normalcy was restored on handing over the rule of the State to the lawful ruler Sayajirao Gaekwad.<sup>2</sup> The proclamation issued by the Gaekwad on that day announced the changeover that was taking place.<sup>3</sup>

1. Baroda Gazetteer, Vol. I, p. 605.

2. Report of the Administration of Baroda, 1881.

3. Residency File No. 555.

The sympathy and the support asked for by the new Gaekwad of the Imperial Government was however promised to be given as would appear from the speeches of the representative of the Paramount Power Sir James Ferguson, Governor of Bombay, who specially came to Baroda for the purpose and from the letters of the British Government that preceded and followed the event. These opportunities were well utilised by the British Government to impress upon the Maharaja the arduous task that awaited him viz. that of governance of the State and the need of unflinching loyalty on the part of the Gaekwad to the British Crown, and wished him God-speed too.<sup>1</sup> The Baroda Darbar also expressed his desire to remain faithful to the British Government and asked for their goodwill towards the state. Thus the occasion was marked with mutual exchanges of good relationship.

#### Sir James Ferguson's Advice

At the Investiture Darbar the Governor Sir James Ferguson made an important speech with regard to the future relationship of the States in general and Baroda in particular with the British Government. At the very outset he declared that "the continuance of the dynasty of Baroda in the person of Your Highness is a fresh proof of the will of Her Majesty the Empress that the Native States of India shall be continued in their integrity and independence. Your Highness' adoption was graciously and willingly accepted by Her Majesty's Government descendant as you are in the direct line from gallant founder of the Gaekwad family, Pilajirao."<sup>2</sup> It will be seen that the importance of the continued existence of the Native States by the British Government was recognised ere in view of the part played in stemming the tidal wave of the Mutiny of 1857. However, the new Gaekwad was cautioned by the Governor of the charge of values of kingship and its functions in the new era and the end of feudal overlordship of a ruler. He said, "the time has gone by when territories and populations could be regarded by the most powerful sovereigns only as the instruments of their personal glory and pleasure. The throne of the queen Empress itself, the functions of us, her servants, the dynasties of the Native Princes, exist for

1. *Ibid.* Vide Lord Ripon's letter dt. 12th December 1881.

2. *Ibid.*

higher ends than personal gratifications. The responsibilities which attach to power, the welfare or sufferings of others, so largely dependent upon its exercise, might well oppress the hearts of those to whom are committed such means of good and evil. Happily there are rewards for the faithful discharge of duty, which are continuous and increasing as life goes on and which will console in failures and imperfect achievements incidental to human efforts. But to gain these rewards there must be kept over in view an aim above self gratification or even human praise, self-denial of that which would injure others or impede our own usefulness a high principle as the rule and guide : for these are needful to preserve him who is raised above his fellowmen from the perils that beset high places."<sup>1</sup>

This was a good piece of advice to the new ruler, and its importance could be realised only if one looked back on the circumstances under which the ex-Gaekwad was deposed and the new selected. The young Gaekwad was also told to keep constantly, in view that higher power "by whom alone Kings reign and Princes decree justice."<sup>2</sup>

These sentiments were in equally eloquent words, reciprocated by the Gaekwad and he prayed to the God to give him strength to fulfil the expectations of his people and his well wishers, and thus set out on an important career of his life.

#### (d) Sayajirao and the Chamber of Princes.

The Gaekwad of Baroda had an important place in the Imperial Court of the British Monarch, being one of the leading Native States, whose sovereign used to receive the salute of 21 guns from the beginning of its relation with the British power. The contributing factors to this were the vastness of its area and closer relationship than others due to the intermingled territories of both the Governments. A treaty State, in friendly alliance with the English, its enlightened policies brought about a transformation of its state of affairs. The last factor responsible for the progressive outlook of its ruler was its faithful administration by some of the leading administrators of the country as Dewans. All these combined to give a place of prominence, to Baroda in the comity of Indian Native States.

1. *Ibid.*

2. *Ibid.*

The progressive outlook of its Ruler was due to his early education and training as noticed before by his able 'Tutors' and partly also due to his extensive world tours, which brought about a broadening of his mental horizon and which was translated in many of his unique expressions in the architecture of his State. His title *Farzand-i-khas-i-Daulat-Englishia* very well indicated his relation with the paramount power.

Being thus in some what higher position than many of his counterparts in different States, he was frequently called upon to advise and lead the cause of Indian ruler or a chief before the representative of the paramount power. Sayajirao also whole heartedly cooperated with any movement which could give an united answer of their class.

The need, both to enable their united expression of opinion on matters of common concern to them and to provide a venue for referring to them of matters which were of joint concern between British India and themselves, was keenly felt in the Princely order.<sup>1</sup> At this stage came Lord Morley's constitutional proposals. Here before, various schemes for securing Princes' cooperation with Indian administration had been mooted. The one suggested by Lord Lytton to establish an Indian Privy Council, however, did not appeal to authorities then.

After this attempt, the first systematic effort by the Government of India, was made under the Viceroyalty of Lord Minto, who suggested an Imperial Advisory Council constituting of about sixty members for the whole of India, including about twenty Ruling Chiefs and a suitable number of territorial magnates of every province, for purely consultative purposes, to deal with such matters as might be referred to it, on questions of common and Imperial interests. The opinion of the Gaekwads was invited on the point. Sayajirao did not approve of the idea.<sup>2</sup> "A body so composed" he observed, "was not capable of doing any good, it might not work smoothly, it might not have independence of judgment, it might not have influence enough to shape and command public

1. H.P.O. File No. 341/9.

2. H.P.O. Files No. 341/5 ; 341/10.



opinion or to affect the action of the Government."<sup>1</sup> The classing of Princes, with treaty relations, with land holders, absolute subjects, appeared to him lowering the dignity and status of the former. He then made alternative suggestion—a "Privy Council" consisting of 20 Ruling Princes and an equal number of British Indian Representatives, to consider questions of common interest between British India and the Native States, or an "Auxiliary Council" of Ruling Princes only with definite powers in matters of common and Imperial interest. As the idea did not receive support it fell through.<sup>2</sup>

Later on it was also suggested and even contemplated by the British Government to call selected Prince to the House of Lords or to constitute an Indian Peerage and therefore, an Upper House or a Second Chamber of the Indian Legislature. But this idea was also dropped.

Subsequently, while replying to the opening address of Lord Hardinge on the question of the Higher College for Princes, in 1913, the Gaekwad expressed a hope that such a conference as was then convened of some Ruling Princes might be repeated in future. In 1914, on a similar occasion the Maharaja of Bikaner suggested that the conference should be convened at stated intervals. Lord Chelmsford convened a Conference of several Ruling Princes and Chiefs at Delhi in October 1916 to advise the Government of India on certain matters concerning the States generally.<sup>4</sup> In the opening speech the Viceroy said, "it may be that in time to come, some constitutional assemblage may grow out of this conference, which will take its place in the Government of this great Empire."<sup>5</sup> Sayajirao Gaekwad, who attended that Conference, in his reply on behalf of the Princes assembled observed that nothing would be more productive of harmonious results between the Government of India and the Princes, than "the establishment of a Council of Princes which will meet at regular intervals."<sup>6</sup> To build up this idea and with a view to concerted action on behalf of Princes a letter of 10th November 1917 was addressed by Sayajirao to brother

1. *Ibid.*

2. *Ibid.*

*Ibid.*

4. H.P.O. File No. 341/3.

5. H.P.O. File No. 341/5, 341/10.

6. H.P.O. File No. 341/10.



Princes.<sup>1</sup> The same afternoon the Princes in an informal meeting appointed a committee of four Ruling Princes, *viz.* Maharajas of Bikaner, Alwar, Patiala and Nawanagar to draw up a scheme. The Committee of Princes met at Bikaner and after discussions and deliberations for a week framed a scheme.

**The Gaekwad approved the Scheme generally. His opinion  
on several points.**

Subsequently, it was further discussed at Alwar<sup>2</sup> but the discussion there was not fruitful of much result. While generally approving of the Scheme Sayajirao remarked<sup>3</sup> that the Chamber of Princes should be advisory only, that the Viceroy should preside over its deliberations, that matters of common interest should be referred to a House of representatives of States nominated in numbers corresponding to the relative importance and position of the States, that in the event of difference, delegates from this House and Indian Legislative Council should meet together, that a Board formed from amongst the representatives of the Princes which should assist the Foreign and Political Secretary and that there should be representation of the Princes on the Imperial Cabinet and the Imperial Conferences.

Afterwards the Committee of the Princes met at Patiala and the Bikaner Scheme was recast in the light of the opinion received from several Ruling Princes. There was no fundamental change with regard to matter of common interest. A joint committee composed of representatives nominated by the Chamber of Ruling Princes and an equal number of delegates selected by the Government of India from the Imperial Legislative Council was suggested. Sayajirao Gaekwad observed<sup>4</sup> that the objects of the Chamber should emphasise the importance of adding to the internal autonomy of the States and removing unnecessary interference with free intercourse with their brother Princes in the Chamber and outside, that reference to the Judicial Tribunal should ordinarily be the usual practice, that disputes with Estates under any guarantee or protec-

1. H.P.O. File No. 341/2.
2. H.P.O. File No. 341/33.
3. H.P.O. File No. 341/36.
4. H.P.O. File No. 341/10.

tion should also be referred to the Tribunal, the Government of India being deemed a party to them, that there should be Commissions of Enquiries also when Ruler is unduly kept back from his full rights, that the position of the Political Agent or the Resident should resemble that of a diplomatic agent with little or no power of internal interference and that as there was no unanimity the claim to send a representative to the Imperial Cabinet and Conferences was untenable.

With regard to Chamber and its composition and functions, there were differences of opinion among the leading Rulers and the Princes, the Principal opponent of any such Chamber being Nizam.

However, several Ruling Princes were invited to meet the Viceroy and the Secretary of State at Delhi on the 4th and 5th February 1918.

The result of this confabulation between the Viceroy and the Secretary of State on one side and Princes on the other was Chapter X of the famous Report on constitutional reforms, known as Montford Reforms. This Chapter dealt with the Indian States. The proposals contained in that Chapter were fixed to be discussed in the Conference of Ruling Princes scheduled to be held at Delhi from 7th to the 13th November 1918. In the meanwhile, a request for the views of the Maharaja Gaekwad was made by the Residency for the communication to the Central Government. The Baroda Dewan's note dated 14th September 1918 generally outlined Baroda Government's attitude.<sup>1</sup> It mainly pressed for acceptance some of the broad principles with regard to the introduction of Reforms. Its careful study revealed certain deeply rooted attitudes of the State towards the Central Government and they were :—

1. Throughout the discussion the question of preserving the dignity, Izzat and honour were always in the background in the pleading of the Princes. They would like them to be preserved at any cost.
2. It always advocated the right of the State of 'Individual Freedom of action', as very important in promoting self-confidence in the authorities of the Native State.

1. H.P.O. File No, 341/46.

3. The Baroda Government also demanded that in their relation with the British Government the important principle of adopting judicial proceedings to decide major questions of political character, like Tribunals, Commissions, should be encouraged and adequate provision for appeals to higher authorities should be made.
4. The Baroda Darbar strongly favoured the free intercourse between brother princes and other provinces of the British Government, of course, on non-controversial subjects, instead of channelising them through Residency always.
5. And lastly, the Baroda Government was a firm believer in the autonomy of the State, with the least or no interference of the British Government's representative in the internal affairs of the State.

The provisions of Chapter X, would also reveal that the suggestions of the Baroda Government had carried a great weight in the formulation of the final proposals relating to the Chamber of Princes. Sayajirao always gave a ready help to the various committees of the Princes of the benefit of his views and also readily deputed his officers, however they might be busy with state affairs, to serve on different committees. Manubhai Mehta, the Dewan, was one of principal architects of the Draft Scheme of the Chamber of Princes which was finally adopted and had contributed by subscribing a studied note on the methods of coordination, which reflected his sound understanding of the whole question and his able administrative experience.

**(e) Problems of Dignity and the Position of the Ruler  
and the Members of his family**

In view of the fact that the Baroda State had uninterruptedly from the beginning maintained relations of great amity with the British Government, the Ruler of that State had all along been treated with unique consideration. He enjoyed the full salute of Independent Asiatic Sovereigns *viz.* a Salute of 21 guns.<sup>1</sup> This Salute he had received from the very beginning of his relations with the East India

1. H.P.O. File No. 341/48.

Company and at a time when Rulers of bigger autonomous States like Hyderabad were accorded a Salute of only 19 guns.<sup>1</sup> The reigning Maharaja Gaekwad upto 1873 used to occupy the right hand seat not only in the Darbars held by the British Representative but also in his own Darbars, held for the reception of the British dignitaries and high functionaries. The various representations to the British Government on this subject had repeatedly expressed hope of the Baroda Darbar that this high position of the Rulers of this State in the estimation of the British Government would be fully maintained in future.

But with the lapse of time, there had been a diminution in the consideration shown to the Ruler of the State. This change of attitude on the part of the British Government was due to changes in their policy towards the Native States of India in general, wherein many a time, no special consideration was given to Treaty rights of an individual state. In Baroda too there were some instances where the Gaekwad felt that either due consideration was not shown or the 'Treaty right' was violated. For example, he was not allowed to occupy the right hand seat in his Darbar as was the case upto 1873, and his reception in Bombay and other places was not attended with the same ceremonies as before. The use of Crown of accidental shape in the crest of the Ruler was also prohibited.<sup>2</sup> In this he saw the lack of willingness on the part of British Government to preserve the old practice. Moreover, he believed that the Gaekwad occupied a unique position in the British Court and it was reasonable that his consort should also be officially shown that courtesy which was her rank. The practice had grown in this regard that the Maharani was paid the customary marks of respect by the British troops only in the capital of the State. The Baroda Darbar was, however, anxious to see that she should be shown similar courtesy whenever she travelled in British India.

Similarly one of the Darbar Representations<sup>3</sup> demanded that due consideration needed to be shown to the sons of the Ruler and

1. *Ibid.*

2. From a note on the subject in the reply given to the States Committee.

3. H.P.O. File No. 341/9.

other members of the Gaekwad family. It is interesting to note that objection was taken by British authorities to the sons being styled "Princes", in correspondence with the Resident or in the State Reports.

It appears that British Government in an attempt to do away with any creation of misunderstanding, at that time or in future, with regard to this word 'Prince' by which they styled the Rulers of the State and not their sons that they prohibited the prefixing the word 'Prince' to the sons of the Ruler. A certain denotation of this word had grown due to its frequent use in correspondence and documents and also in other important papers of the State. It meant there 'The Ruler of the State' and not the 'Son of the Ruler of the State'. This appears to be a purely convenient device in the administrative structure and therefore Baroda representation, if the above presumption is correct, cannot be easily understood.

Article VIII of the Definitive Treaty of 1805 provided that "such goods and articles as may be bonafide required for the private use or consumption of that (Gaekwad) family or of the Minister, shall be allowed to be purchased at Surat and Bombay and to be sent from thence free of duties on being accompanied by a passport from the Resident at Baroda." This provision, was not considered when the personal baggage of Rajkumars Fatehsingrao and Dhairyashilrao (sons of Sayajirao Gaekwad III) was not exempted from the payment of customs duties at Bombay when they returned from England in 1902. The Government of India, held that the personal effects of the heirs of Ruling Chiefs, when travelling abroad by themselves could not be exempted from the payment of duty ; that they must be subjected to the same duties as sons of all other Ruling Chiefs in India were, and that such exemptions would not be sanctioned in future.

The Baroda Darbar protested that the above ruling of the Government of India "does not seem to be in consonance with the Treaty provisions existing between the two Governments, and deserves to be reconsidered in a liberal and sympathetic spirit."<sup>2</sup>

1. H.P.O. Selection 25, p. 48.
2. H.P.O. File No. 341/9.



**(f) The question of acquisition of immovable property  
in British India by Ruling Princes and Chiefs**

This was a very important from the Prince's point of view as far as their dignity and the prestige was concerned. The disability which the Government of India had imposed upon them, they thought, was not in conformity with justice and fair play. As soon as, therefore, an opportunity for its raising was available before the Princes' Committee for the codification of political practice under the Montford Reforms, the question was taken up by the Princes' Conference. Before arriving on any definite conclusion Government of India thought it wise to ascertain the views of some of the leading Princes and in accordance with this Lieut. Col. C. J. Windham C.I.E. Resident at Baroda on 5th July 1920, requested the Gaekwad to communicate his views for their transmission to the Government of India. A lengthy reply was sent on 11th August 1920. The Gaekwad regarded the policy of keeping Indian Princes isolated and confined to their own little principalities as undesirable in their own interest. His views indicate the breadth of his vision. "By occasional residence in important centres of commercial and industrial activity," he said, "their interests in the welfare of their own State is appreciably quickened. In Presidency Towns they get the benefit of watching the conduct of the Municipal Government, and of partaking into intellectual, educational, and social refinement and culture of urban life. They have opportunities there of studying the under currents of thought which they can apply for the regeneration and upliftment of their own States."<sup>1</sup>

Related to the above question of acquisition of immovable property, was the question of the right of the British Government to levy incometax on these said properties.

However in 1920, when the Governments of Bombay, Madras, the United Provinces and the Punjab favoured the proposal to exempt from incometax the Ruling Princes and Chiefs in respect of Residential property owned by them in British India, the friction was averted. A Ruler of a State was very sensitive on questions like succession, Installation and investiture. He attached great

1. *Ibid.*

importance to these and any error of omission or commission. Even in minute detail, it was strongly resented. Naturally therefore soon after its installation the Princes' Chamber took up this question in 1916. Its views were then communicated to the Government of India who prepared a memorandum on the subject. This was sent to the Gaekwad for his opinion on 15th January 1918.<sup>1</sup> As the question was still being discussed in the committees of the Princes' Chamber the Gaekwad's reply was not sent until April 1919. This reply is one of the few documents bearing the signature of Sayaji-Rao himself. It narrated in a detailed manner showing how questions of succession, installation and investiture were solved from the earliest known information of Maharaja Ganpatrao in 1847. He brought out particularly three issues on which clarification from the Government of India was sought. These were<sup>2</sup> :—

- (1) Authority of confirming a succession in certain cases,
- (2) 'Natural heir in the direct line,'
- (3) Idea behind the term *Proprio Vigore*.

(1) The Gaekwad admitted that the British Government had admittedly the authority of confirming a succession in all cases of dispute, but he sighted cases where there might be cases of collateral heir, such as a brother, brother's son, or an uncle's son or the like, who, though might not be an heir in the direct line had in the absence of such an heir an acknowledged right to succeed, according to law and established custom and when there was no rival claimant nor any dispute. In such cases, the Gaekwad observed, the recognition of his succession might be only formal and should not require any further confirmation.

(2) By the expression 'Natural heir in the direct line' Sayajirao understood, the intention to include all direct heirs, natural or adopted, and collateral descendants from a common ancestor. The adopted son might be one, he said, adopted by the deceased ruler during his life-time or after his demise according to instructions left by him. Sayajirao, therefore, thought that it would save ambiguity if instead of the said expression, the following was substituted.

1. H.P.O. File No. 341,70.

2. *Ibid.*

"Natural heir in the direct line—whether natural, or adopted or a sole collateral heir whose right is not disputed, according to the law applicable to the parties"—or any explanatory note to that effect should be added in the Memorandum.

(3) The Memorandum laid down that "the Installation of a Prince or Chief, who is of full age, carried with it *proprio vigore* his investiture with full ruling powers unless Government see fit to restrict by special order the exercise of such powers."<sup>1</sup>

In this connection, the Gaekwad suggested, that the order about "restricting the exercise of Ruling Powers, may only be made when there has been an enquiry beforehand by a commission". This commission should also be brought forward to work when there was a case of restricting the heir, where there were circumstances for the restriction to be imposed, from assuming full powers even when he attained the age of majority, which the Government of India kept for the decision by itself.

Thus it can be gleaned from the instances quoted above that while on one side the Darbar thought that unwarranted restrictions and modifications had been made in the relation between the Ruler and the members of his family. On the other, the British Government claimed the Paramountcy to justify its stand, being responsible for efficient Government in Indian States. It also firmly believed that custom, practice and precedent have had a shaping and correcting process, radically changing the old Treaties, which were now virtually obsolete and on which in particular cases the State took its stand.

With the change in the idea regarding the concept of monarchy everywhere, increasing limitations were bound to be placed on the hitherto unlimited powers of this order and British Government was rather slow in doing this in comparison with other races and people.

There was one of the most hotly discussed subjects between the Baroda Government and the British Government *viz.* tours and visits abroad of the Ruler. The gradual restrictions began to be imposed with the famous Curzon Circular of 20th July 1900, on the frequently touring abroad of the Indian Princes, either on health

1. *Ibid.*

grounds or on pleasure trips. This was considered by the Baroda Government an arbitrary action on the part of the Paramount Power, not calculated to promote the Izzat and dignity of the Ruling Princes and a serious encroachment on their individual freedom.<sup>1</sup> This Circular had enjoined that previous sanction of the Government of India had to be obtained before the princes set out on a foreign tour. The Baroda Government observed that "unmindful of the dignity and high position of Indian Princes who had been invariably honoured as friends and allies in past treaties and Engagements, the abrupt manner in which the Government of India endeavoured to create a new body of usage and precedent highly detrimental to their much cherished privileges and status, evoked wide-spread feelings of pain and resentment, which it was unnecessary to recall."<sup>2</sup> The Gaekwad showed his keen aversion to accept any novel situation that was not in consonance with the spirit of his old Treaties of friendship, amity and mutual goodwill, and moreover he said, while he was ready to cooperate with the British Government in revising political practice in order still further to improve their mutual relations, for their mutual benefit, he was equally anxious to lay down nothing which would in the remotest way impair or infringe privileges and rights flowing from past Treaties and Engagements, construed in the spirit in which they were originally entered.<sup>3</sup>

#### Modification in the Rule

The Gaekwad's Government was, later on, informed by the Resident that it was not necessary for the Government to submit the arrangements during the absence of the Maharaja for the approval of the Government of India, but they were simply to be informed of it. This modification in the policy had been omitted to be conveyed to Baroda's Government for which the Resident regretted. The Baroda Government, however, noted the change with satisfaction.

1. *Ibid.* See the Dewan's letter of 14th July 1920.

2. *Ibid.*

3. *Ibid.*

## CHAPTER 8

### CONCLUSIONS

A perusal of the foregoing pages must have shown that in its political relation with the British Government, the Baroda State had various occasions where coordination between the Baroda Government and the Government of India was absolutely necessary and the smooth action was impossible in the absence of whole-hearted cooperation on both sides. To generalise from the Baroda story—as the relations of all the Native States of India with the British Government would have been more or less similar, it can be said that the interests of the Indian States were not invariably hostile to those of British India. On the contrary they often ran in the same direction but it could not be denied that there were numerous fiscal and other interests, wherein the claims of the Indian States were necessarily at conflict with those of British India and it was with regard to these that means of joint deliberation with or of adequate representation on the Indian Legislature, were proposed to be devised.

#### Four Major Heads

All the political problems discussed in the foregoing pages, be grouped under the following main heads :

- (1) Transport and communications
- (2) Customs and excise
- (3) Justice
- (4) Sovereignty

#### (1) Transport and Communications

Under this head we may group various disabilities which the Indian States suffered then, with regard to :—

- (a) Railway construction
- (b) Postal arrangements
- (c) Telegraph, telephones, and wireless

The Gaekwad had frequently assured the British Government to extend his whole-hearted cooperation to the British Empire on occasions of emergency and for purposes of defence of the Empire. On such occasions he was prepared to place his resources.



including the railway and telegraph at the disposal of the Empire. Baroda's generous contributions in men and money during the World War of 1914, its immediate request to the British Government to utilise Baroda's resources during the South African war and Afghan uprisings, were amply recognised. On the other hand the State demanded that on ordinary occasions it should have perfect liberty to improve and extend all those means of transport and communication.

But what was the actual position? The Government of India by one fiat raised the postal rates and telegraph charges. The receipts from post and telegraph raised from Indian States were not handed over to the States for the benefit of the people who suffered the incidence of this taxation. Latterly, the Government had acknowledged the justice of the claim of Indian States to a share in these receipts, but the people in the State had no voice in the regulation of those service charges. The States demanded that their people should have a voice alongwith British Indian subjects.

Again the Railway Board by one order raised the railway fares and rates which even Indian State subjects had to pay without demur. Surplus freight and surcharges did not contribute to the State Treasuries. Here also, the States wanted their people to have a voice in the control of such competitive rates. Similarly they observed that Indian industries were often paralysed by the manipulation of rates and the State subjects should have their say in settling the freight rates that might ruin their industries or prevent the development of their resources.

The Baroda Government had suggested the formation of a sort of *Zolverin*—a Railway Union or postal Union to obviate these difficulties.

## (2) Customs and Excise

The Baroda Government was also of the opinion that there should be also a custom *Solverin*. The claim of Indian States to share in the sea customs revenues had been appreciated and recognised by the Political Department of the Government of India but there were difficulties from the Finance Department and Indian Legislature and therefore the claims of the States were asked to be vigorously pressed by adequate representation on the Legislative Assembly.

The Government of India had extinguished the opium revenue of Baroda. They did not allow the States new openings for the replenishment of this revenue and in conflict with the British Indian claims the interests of the States were prejudiced in absence of proper safeguards.

The Government of India had created a state monopoly of salt and the subjects of Indian States were liable to pay the salt duty even when enhanced without their consent and derive no benefit from this taxation. If certain States were compensated for the loss of salt revenue the compensation was not increased with the increase in salt duty to meet the consequent loss to the State.

In Abkari arrangements arising out of the State monopoly of liquor the interests of State subjects suffered when they clashed with those of British India.

### (3) Justice

The Indian States were assured of complete internal autonomy. They were notwithstanding denied all jurisdiction over European British subjects and even over Europeans and other non-Asiatic foreigners. In some cases the Government of India interfered even on behalf of British subjects or British servants, and thus impaired the autonomy of the States. The Baroda Government had more than once remarked that this could not be remedied unless the Indian States had some hand in amending and enacting criminal laws for India.

Jurisdiction over railway lands was rarely allowed to continue with the Indian States. This was also considered by the Indian States a needless interference with their internal autonomy. The ends of justice could have been secured by suitable amendments in the extradition laws and the code of criminal procedure.

The Gaekwad's Government believed that reciprocal arrangements could have been suitably perfected for the arrest of mutual deserters and the surrender of fugitive offenders. Reciprocity could also be secured for the execution of decrees and the taking of evidence on commissions mutually accepted.

### (4) Sovereignty

Many instances have been already quoted and numerous instances could be multiplied where the incidence of Sovereignty or

internal autonomy of Indian States was only partially and grudgingly recognised. Baroda was not an exception to this practice. To recapitulate :

Indian States were denied the privilege of coinage and induced to close their own mints. They were not admitted to the benefit of Seigniorage.

Indian States were prevented from levying income-tax on servants residing within lands ceded for only railway purposes. Various kinds of revenues were derived by the railway administration from land ceded only for the construction of railway and the States were not allowed to participate in these fiscal gains.

The States were not allowed perfect freedom to develop their own natural resources. Difficulties and obstructions were placed in the way of the working of mines and minerals in States.

States were discouraged from opening and improving new ports and harbours. In some cases they were actually prevented when the port or seaborne traffic was likely to compete with established rail routes.

Difficulties were often experienced in the opening of new industries if they were likely to compete with particular industries in England. Often paralysing restrictions were placed on the industries dealing with the manufacture of arms and ammunition.

Free import of arms and ammunition even for the use of the State Army or for the Ruler was prohibited.

The Gaekwad even complained that little solicitude or consideration was shown for the feelings of the Ruler. Restrictions were placed on his free movements and travelling and on his acquisition of immovable properties in British India. Ceremonial occasions and visits were cut down and curtailed without consideration for his dignity and *Izzat*. His freedom in the employment of European servants was also hampered.

These were only the few instances of the whittling down of the sovereignty of Indian States. Adequate representation in the Imperial Councils and deliberative bodies were demanded by the Native States for the preservation of these ingredients intact.

On the other hand, from the general review of the British policy regarding the States of India, following observations might

be safely made.

The British standards of justice were basically different when applied to English people from those applied to the peoples of the Colonies and the former Indian Empire. In their dealing with the Native States they had only two guiding principles *viz.* Political expediency and convenience : and these may be found at the basis of what is termed by Sir Charles Tupper as the Indian Political law.<sup>1</sup>

#### Indian Political Law

Sir Charles said : "The fact is that for the adjustment of relations of the Continental States of India a new system has grown up, very different from any which was possible in the days of Edmund Burke, but it is believed, quite as much in accord with the principles of reason and morality as the western system, which determines the relations of European Independent States and other like States of the Civilised World."<sup>2</sup> The rules and principles that constituted the new system, was given the name of Indian Political Law.

At other place the ends of this Indian Political law were explained. These were : ".....the maintenance of the supremacy of the paramount power, whose guardianship is the security for the peace of the whole Indian Continent, the preservation of the autonomy of the feudatory States, and the assurance to the diversified populations of these States that they shall enjoy freedom from gross misrule."<sup>3</sup> The source of this Indian Political law was "without doubt usage—the actual practice of the Indian Government itself in its dealings with its feudatories."<sup>4</sup>

Seen in actual practice the Indian Political Law was nothing but an arbitrary collection of maxims and formulae that suited the political officer best. It had no basis in law, justice or equity. *Secondly*, Indian Political Law could not be foreign to the generally recognised principles of International law. *Thirdly*, a large number of matters which were then treated politically *e. g.* Boundary dis-

1. G. L. Tupper, *Our Indian Protectorate*.

2. *Ibid.*, p. 6.

3. *Ibid.*, p. 11.

4. *Ibid.*, p. 10.



putes, claims against the States *etc.* should have been dealt with according to judicial proceedings.

Again one of the ends of this Indian Political Law was stated to be the "preservation of the autonomy of the feudatory States." From the perusal of this treatise one is tempted to derive a different conclusion. It is a story of the continuous unwarranted intervention on the part of the representatives of the British Government into the internal affair of a State. No doubt, there had been proclamations and announcements by the British Government regarding their relative positions with the Indian States like Queen's proclamations of 1858, which was followed by that of the King Edward and various pronouncements by Viceroys, the latest in the period under our review was that of Lord Chelmsford. But how far these words had any meaning with the actual realities, and how were they interpreted by the actual practice is a matter for anybody's guess.

This feature of relationship between Indian States and British Government requires to be put in proper perspectives to help correct understanding of the situation as it obtained then.

In this connection each Indian State had its own story to tell. When facts are analysed it will be found that they can be classified under a few major heads.<sup>1</sup>

- (1) Often deliberate attempt on the part of Political Department to lower the prestige of a State.
- (2) Insistent effort to favour smaller states or estates at the expense of the bigger ones.
- (3) To disregard the interest of Indian States when it conflicted in the least with that of British Government.
- (4) Policy of distrust, particularly in military matters, resulting in antidiluvion equipment of Indian State Army and prevention of improvements even in the smallest detail.
- (5) After Morley-Minto reforms distinctions between Hindu and Muslim States.

Illustrations are not wanting to support the above statements.

1. This is of course a very rough classification.



In Baroda, the manner in which the Giras cases were managed and the way in which individual idiosyncrasies of officers have played havoc would form a history of its own. From this evil not only Baroda had suffered but most of the States would tell the same story. The way in which other political cases were disposed off by the British Government, was hardly in keeping with the dignity of the States, or the so-called Allies. They were practically dealt with in the same manner as summary cases in the Court of the Magistrate.

#### Another Point of View

Notwithstanding the inestimable harms done to the interests, *Izzat* and honour of the Ruler of Baroda State, to the student of history there is another interesting point of view as revealed in the day to day conduct of political relationship of the two *viz.* British and the Native Governments.

It has been said that the Indian Political Law was distinct and no like system could be found anywhere else except in India. The Political Officers of the British Government, who were responsible in its development in their day to day dealings with Baroda Government reveal to us the quality of the British character and their way to govern the people. One can easily imagine how shrewd and wise, of course for themselves, their manners and methods were that people of such a tiny island could establish and own a vast empire extending throughout the surface of this planet. What were, then, the characteristics of this empire-building quality of the British people?

Many of the East India Company's officers were very astute negotiators. They knew with whom they were negotiating and for what they were negotiating. They tried to win over the opposite party by any means *viz.* those propounded by Hindu shastras—सम, दाम, दंड, भेद. The way in which Mountstuart Elphinstone, the Governor of Bombay negotiated with Sayajirao II, bore witness to this conclusion.

The second stage after the negotiation was the stage of drafting the treaties or terms of understanding. While drafting the treaties they exploited the ignorance of the language of the opposite party.

The third stage was the interpretation of these treaties, which was done according to the policies in mind.

For all this, they took almost all advantage of the circumstances favourable to them. For example, in the interpretation they would exploit the minority regimes or their superior power over the States, or the complacency of the Dewan or the native in charge.

In the event of disputes the British pronouncements always laid stress on justice, fair play and equity, points of high morality, at least on the paper. The State functions, Darbars, banquets would be invariably utilised by them to make such pronouncements, and thus eventually show that all their acts flow from these supreme and honourable tenets of public good.

In the correspondence with the States the intentions of the British Government were not put in too broad terms, lest they might leave enough scope for the different interpretation through loop holes in the treaties. An instance to point was the Secretary of States's letter, regarding the choice of Dewan by the Gaekwad. The matter which was put too broadly by the Bombay Government in 1867 was criticised by the Supreme government.

It was expressly laid down by the Governments of India and Bombay that the Resident while conveying the decision of the British Governments to the State should refrain from indulging in giving detailed explanations of the grounds of decisions arrived at but should only communicate the purport of the decision mostly using the same phraseology contained in the Government of India's letter.

The British were proficient in the art of administration. The huge Civil Service structure which we find today in India was greatly augmented by them. They outwitted all the foreign powers on the soil of India in this art.

Secondly, their choice of the proper and fit person to execute the policies in view as required by political exigencies was superb. They could utilise the talents of persons to further their own cause.

The policy of divide and rule was cleverly followed. The whole of India was divided into British India and the Native States, the Natives states were divided (1) bigger and the smaller states, (2) Hindu and Muslim States.

When two persons, or two States or two parties were to be

consulted, they were usually separately consulted and hardly called in together.

For the solution of any problem of the State in their favour the human weaknesses of the Rulers or their Dewans were generally utilised. Personal attention, adorations, giving titles to nurture their self-love and vanity were the various devices employed. They sent *Mor Chhals* (Peacock feathers fan) to Khanderao, which the latter himself demanded while other honours and titles were given to Maharani Jannabai and to Sayajirao the III himself.

These characteristics, over and above many others, were chiefly responsible for the carving out a large empire for themselves thus giving them a place of prominence in the comity of nations.

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- (1) H.P.O. Files Nos. 108/1,2,3. Vasad Kathana Railway.
- (2) H.P.O. Files Nos. 189/8,10,16,17. Compensation to the Baroda Darbar for lands and trees taken for Railway.
- (3) H.P.O. File No. 193/1. Cession of Civil and Criminal Jurisdiction over land ceded to the Western Rajputana State Railway.
- (4) H.P.O. File No. 195/15. Memo regarding Railways in Baroda territory.
- (5) H.P.O. File No. 347/1. Railway in the Baroda district.
- (6) Residency File No. 794. 'Railway'.
- (7) Selections from the Records of the Baroda Government No. XXXII. 'Jurisdiction over Baroda Cantonment'.
- (8) H.P.O. File No. 40/10. Jurisdiction of Indian States over Europeans and Americans—their right to acquire land in Indian States and other connected correspondence.
- (9) H.P.O. File No. 40/12. Trials of European British subjects for offences committed in Baroda territory.



- (10) Selection from the Records of the Baroda Government No. XXIII Correspondence about British Government servants in the Baroda State Service.
- (11) H.P.O. Files Nos. 40/3,8. Trial of Europeans by His Highness' Courts.
- (12) H.P.O. Files Nos, 72/78 A, 86. Desai of Nawsari.
- (13) H.P.O. Files Nos. 72/27, 82 A, 82 B. Sunderji Nilaji.
- (14) Reply of the Baroda Government to the States Committee.
- (15) Residency File No. 565. 'Guarantee'.
- (16) H.P.O. File No. 282/3. Claims of the Girassias and others residing in Baroda territory for the extension of British guarantee to their lands and certain other matters.
- (17) H.P.O. Files Nos. 298/1,2,15. Correspondence regarding the extension of the British Guarantee to the Mahikantha Bhayats.
- (18) Residency File Nos. 10 and 123. Mahikantha Girassias.
- (19) H.P.O. Files Nos. 305/12,15,16,19 and 20. The Giras and other rights of the Rewakantha Girassias in Baroda territory.
- (20) H.P.O. File No. 379/35. Settlements of the lands of Mulgirassias of Amreli Mahals.
- (21) Tribute and allied matters Vol. 1.
- (22) H.P.O. Files Nos. 279/11 and 40,35,28. Miscellaneous correspondence about the Mulgirassias of Amreli Part I and II
- (23) H.P.O. Files Nos. 297/9. Establishment of the Giras Court at Amreli.
- (24) H.P.O. File No. 279/41. Memo by Mr. C. N. Seddon on Amreli Girassias.
- (25) Giras Conference of 1907.
- (26) Meivill's Memorandum on Giras and Wantas.
- (27) Residency File No. 734 Guaranteed Girassias in Rewa Kantha.
- (28) Selections from the record of the Baroda Government. "Postal Arrangements".
- (29) Selections from the record of the Baroda Government. "Telegraphs and telephones", Vol. II.

- (30) H.P.O. File No. 34/56. Ceded districts.
- (31) H.P.O. File No. 34/62. Retrocession of territories ceded by Baroda for the maintenance of the subsidiary force.
- (32) H.P.O. Files Nos. 34/63,64. Revision of Political arrangements in Gujarat and Kathiawar—Sovereignty question Part I and Part 2.
- (33) H.P.O. File No. 34/34.  
Claim of His Highness' Government to the annual presentation of a horse and Khillut by the Nawab of Radhanpur in fulfilment of the Treaty of 1813.
- (34) H.P.O. File No. 116/43. Summary of correspondence regarding the Ghasdana, Jamabandi etc. collected by the British Government on behalf of H. H. the Gaekwad from the Tributaries of Kathiawar, Mahikantha, Palanpur, and Rewakantha Agencies.
- (35) H.P.O. File No. 116/48. Payment of Palanpur Agency Commutation money and tribute in British Currency.
- (36) H.P.O. File No. 117/21. Jamabandi of the Vanod villages.
- (37) H.P.O. File No. 116/88. Punadra Case.
- (38) H.P.O. Files Nos. 116/41,42. Babariawad Tribute case.
- (39) Note on Political Cases dated 15-9-1912.
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- (41) H.P.O. File No. 116/36. Mohsali Fund for the suppression of female infanticide in Kathiawar.
- (42) H.P.O. Nazrana Selections. Part I and II.
- (43) Bombay Gazetteer (relevant portion in Baroda Volumes).
- (44) H.P.O. File No. 116/34. Remissions of tribute granted by the Government of Bombay to the Chiefs of Mahikantha and Rewakantha between 1875-79.
- (45) H.P.O. File No. 116/58. Remission and suspension of Tribute due to the Baroda State from Kathiawar Rewakantha, Mahikantha and Palanpur Agencies.
- (46) H.P.O. File No. 116/61. General question of remission of Tribute submitted for consideration to the Government of Bombay.
- (47) H.P.O. File No. 116/62. Important letters about remission in Tribute to Chiefs of Rewakantha, Mahikantha,

- Palanpur and Kathiawar from the year 1899 to 1902.
- (48) H.P.O. File No. 116/67. Remission in Palanpur for the year 1911-12.
  - (49) H.P.O. File No. 116/57. Levy of interest on arrears of Tribute due to the Baroda State from Rewakantha, Mahikantha and Palanpur Agencies.
  - (50) H.P.O. File No. 116/7.. Interest on belated payments of Tribute.
  - (51) H.P.O. Files Nos. 116/76 A.B. and C. Pethanpur Tribute.
  - (52) Residency File No. 425. Tribute Mahikantha and Kathiawar.
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  - (55) H.P.O. File No. 207/1. Arrangements for the settlement of boundary disputes between Baroda and the adjoining Indian States and British districts : appointment of an officer for the settlement of such disputes.
  - (56) H.P.O. File No. 207/8. Correspondence regarding lists of unsettled boundary disputes between Baroda and the adjoining Indian States and British territories.
  - (57) H.P.O. File No. 207/11. Procedure in connection with boundary appeals.
  - (58) H.P.O. File No. 207/20. Reports of the Boundary Commissioners.
  - (59) H.P.O. File No. 207/22. Correspondence regarding appeals against the decision of the Boundary Commissioners.
  - (60) H.P.O. File No. 207/52. Question regarding the settlement of boundaries of riparian villages belonging to different jurisdictions.
  - (61) H.P.O. Selection No. IX, 'Gheer Case'.
  - (62) H.P.O. Dang Case Volumes No. X, Vols. I, II, III.
  - (63) Junagadh Jortalbi Prakaran. H.P.O. Selection No. 5.
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- settlement of the boundary dispute between the villages of Piplej (Baroda) and Wasna (Mahikantha).
- (65) H.P.O. File No. 207/76. Misc. Correspondence in connection with the settlement of boundary disputes demarcation of boundary lines erection of pillars etc. in Baroda territory.
  - (66) H.P.O. Selection No. XI Vol. III. Boundary Surval Case.
  - (67) H.P.O. Selection No. XXVIII. Disputes relating to certain matters connected with Prachi and Prabhas Pattan.
  - (68) H.P.O. Selection No. XXI. Jurisdiction over Naviani and other villages.
  - (69) H.P.O. Selection on Status of Wadi Salher.
  - (70) H.P.O. Selection XII. Chandod Case.
  - (71) Residency File No. 650 'Correspondence regarding Chandod Jurisdiction.'
  - (72) Residency Files Nos. 65/652. 'Dangs Boundary'.
  - (73) Residency File No. 655. 'Customs Boundary disputes'.
  - (74) Residency File No. 364. 'Baroda Darbar Miscellaneous'.
  - (75) Residency File No. 426. 'Boundary disputes Mahikantha'.
  - (76) Residency File No. 396. 'Boundary Disputes—Palanpur'.
  - (77) H.P.O. Selection No. 6. Extradition.
  - (78) Extradition, Vols. I and II, 1908.
  - (79) H.P.O. 'Memorandum regarding general question of Extradition.

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- (1) H.P.O. Selection No. XXV, Military matters, 8 volumes.
- (2) H.P.O. Selection No. XIII, Contingent.
- (3) Supplement to Contingent No. XIII.
- (4) Residency File No. 482. Correspondence regarding Gujarat Irregular Horse.
- (5) Residency Files Nos. 476 to 481. Baroda State Troops (Six Files)'.

#### Chapter 6.

- (1) H.P.O. File No. 254/3. Information, complaints *etc.* regarding the levy of Port dues at the ports in Baroda territory.
- (2) H.P.O. File No. 254/5 A and B, Misc. Correspondence regarding Ports.

- (3) H.P.O. File No. 254/17. Correspondence regarding Beyt and Velan Harbours.
- (4) H.P.O. Selection No. XVI. 'Salt'.
- (5) H.P.O. Files Nos. 261/3A, 3B and 15. Correspondence regarding proposals of the Government of India to establish control over foreign trade carried on at the ports of Indian States on the Kathiawar Coast and removal of the customs barrier at Viramgam.
- (6) H.P.O. Selection No. XV. 'Customs'.
- (7) H.P.O. Files Nos. 254/11, A.B.C. Jurisdiction over derelict goods (Floatsam and Jetsam rights)
- (8) H.P.O. File No. 207/145. Memo of appeal regarding Pagarkhoda Islet.
- (9) Residency File No. 569. "Miscellaneous Armar Cesses".
- (10) H.P.O. File No. 261/9. Correspondence regarding the levy of certain taxes called 'armar cesses' by His Highness' Government in the British and Baroda territories.
- (11) H.P.O. Selection on 'Opium', Vol. III, Parts I, II, III and IV.
- (12) H.P.O. Selections on the 'Baroda Currency', Parts I to IV.

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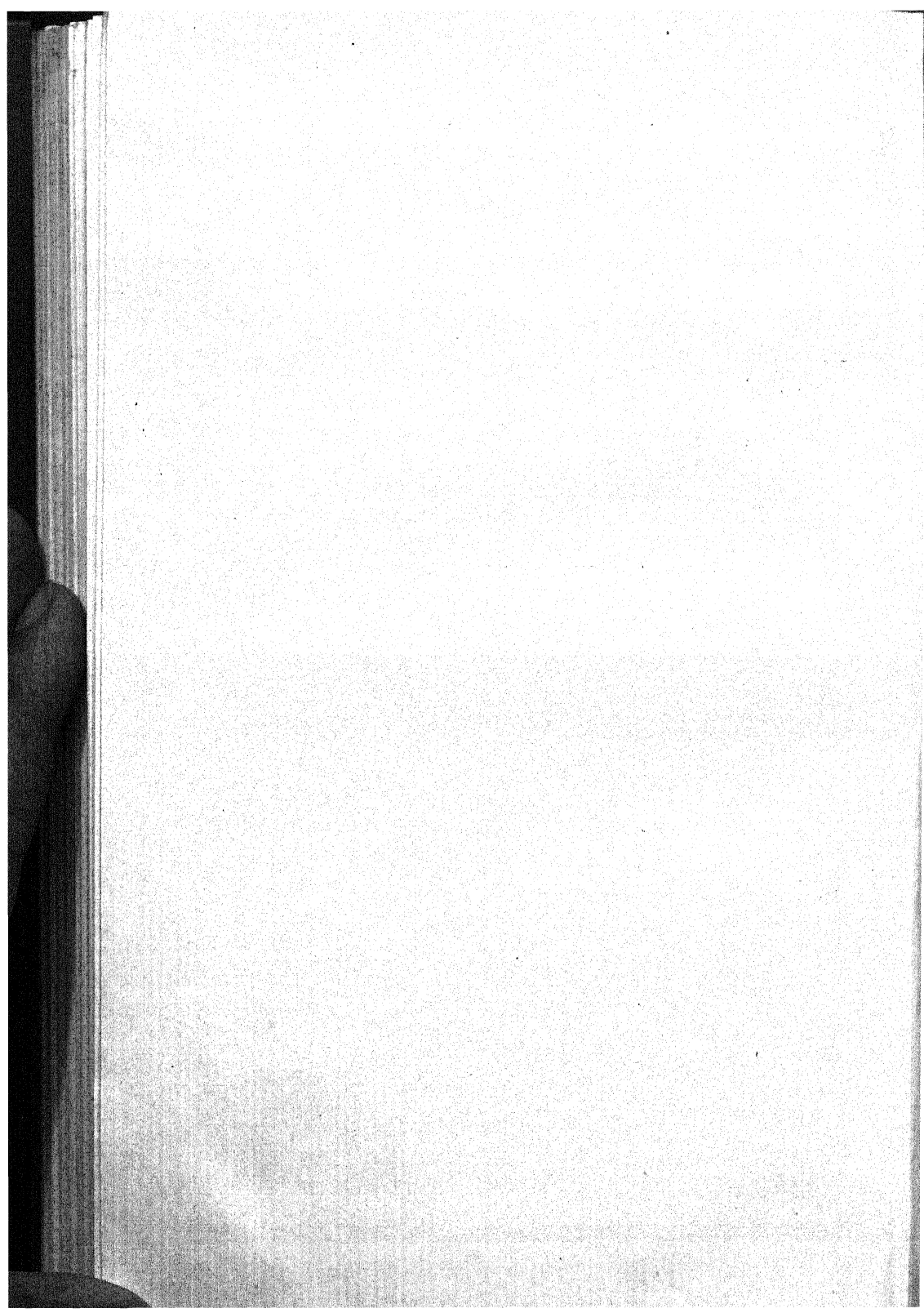
- (1) Residency File No. 560, 'Gaekwad and his Ministers'.
- (2) H.P.O. File No. 1/1 A, 1 B. His Highness Maharaja Sayaji Rao Gaekwad.
- (3) Residency File No. 232. 'Baroda Riot'.
- (4) H.P.O. Volume on Notes on the points to be discussed at the Conference of Ruling Princes and Chiefs to be held at Delhi on 30th October 1916 and the following days.
- (5) Residency File No. 350. Future arrangements of administration of Baroda State.
- (6) General Sir Richard Meade and the Feudatory States of Central and Southern India—By T.B. Thornton.
- (7) The Administrative Problems of British India—By Joseph Chailley.
- (8) H.P.O. Files Nos. 5/1,2. Investiture of His Highness the Maharaja Saheb.
- (9) Residency File No. 555. 'Gaekwad and his Ministers'.



## CONCLUSIONS

185

- (10) H.P.O. Files on Conference of Indian Princes and Chiefs *etc.*, 16 Files.
- (11) H.P.O. File No. 34/29. Exemption from customs duty of the personal baggage of the sons of His Highness.
- (12) H.P.O. File No. 15/4. Acquisition of immovable property in British India by Ruling Chiefs, notables of Indian States.
- (13) H.P.O. Files Nos. 15/8 and 90/14. Income-tax on the Property of His Highness in Bombay and Ooty.
- (14) H.P.O. File No. 15/13. Correspondence about advancing loans on the Security of immovable property in British India.
- (15) H.P.O. Manual and Procedure relating to ceremonials tours of H.H. in India and abroad.
- (16) H.P.O. File No. 341/27 A and 27 B, Titles of 'Prince' and 'Princess' to be used in addressing the Royal Children.
- (17) Residency File No. 549. 'Baroda Ceremonials'.



# INDEX

- Ahmedabad—2, 116, 117, 118, 120  
 Ameenodeen Hoosain Khan—23  
 Amreli—53-56, 83, 104  
 Anand—32  
 Anandrao—3, 8, 9, 10, 21, 22, 35, 114, 115, 117  
 Appaji, Ravji—9, 19, 20, 21, 114  
 Arms and Ammunition—128, 129  
  
 Bahendhary—21, 24  
 Banaskantha—98  
 Baroda Contingent—12, 13, 121-124  
 Bassein Treaty of—22, 116, 131  
 Billimoria—32  
  
 Cambay—34  
 Canning Lord—11  
 Cantonement—13, 34-37  
 Carnac, James Rivett—4, 24, 123  
 Carnac Major—22  
 Chandod—98, 99, 101  
 Chelmsford, Lord—12, 158, 174  
 Clair, Earl—23  
 Cranbrook, Lord—103  
 Currency—144-146  
 Curzon, Lord—9  
 Customs and Excise—169, 170, 171  
  
 Dabhade, Khanderao—1  
 Dadabhai—27  
 Daneajirao—1  
 Dangs—89-94  
 Dhari—32  
 Definitive Treaty—10, 12, 14, 16, 21, 115, 117, 118, 131, 132, 164  
 Duncan, Jonathan—19  
  
 East India Company—3, 4, 10, 11, 14, 15, 89, 114, 115, 117, 118, 119, 122, 132, 162  
 Elphinstone, Mt. Stuart—22, 23, 72, 105, 125, 175  
 Enam Commission—52  
 Extradition—13, 110  
  
 Fatehsinhrao—3, 20, 117  
 Ferguson, James—156, 157  
  
 Ganpatrao—4, 5, 152  
 Ghasdana—66  
 Gheer—106-108  
 Girasias—46-49, 51-54, 57-59, 141  
 Govindrao—3, 19, 114  
 Guarantee to certain subjects of other states—41-46  
  
 Hastings, Marquis of—116  
 Hitechhu—25  
  
 Ilbert's Bill—41  
 Income Tax—49, 143  
 Indian States Committee—12  
  
 Jackson F. H.—81, 89, 104  
 Jamabandi—66, 80  
 Jamnabai—6, 147, 149, 152, 153, 177  
 Junagadh—102, 106, 109  
  
 Kanojirao—114  
 Kashirao—6, 153  
 Kathiawar—17, 30, 31, 33, 51, 53, 54, 55, 59, 67, 69, 70, 72, 73, 74-76, 78, 79, 81, 82, 83, 102-104, 106-108, 115, 118, 134-139  
 Khanderao—5, 11, 24, 52, 109, 123, 133, 147, 148, 149, 152, 153  
 Khijadia—32

- Lee-Warner, Williams—8, 71, 73,  
     74, 97  
 Lester, Colonel—106, 108, 109,  
     110  
 Lytton, Lord—86  
 Machonochie—89  
 Madhavrao, T.—1, 28, 57, 78, 81,  
     84-87, 101, 110, 124, 129, 130,  
     134, 140, 145, 151-153  
 Mahikantha—47, 50-53, 64, 66,  
     67, 74, 76; 77, 81, 82, 84, 86,  
     95, 96  
 Malcolm, John—23, 99  
 Malharrao of Kadi—3, 9, 114  
 Malharrao—5, 9, 18, 25, 27, 109,  
     114, 126, 147, 149, 152  
 Manajirao—3  
 Meade, Richard—56, 57, 84, 85,  
     130, 148, 150-154  
 Mehta, Manubhai—40, 69, 71,  
     146, 161, 162  
 Mehsana—32  
 Melvill, P.S.—28, 58, 86, 93, 101,  
     140, 141  
 Military Force—125, 126  
 Minority Administration—153-  
     155  
 Minto, Lord—158  
 Montague—12  
 Montford Reforms—161, 165  
 Morley, Lord—158  
 Mulukgiri—51, 64, 73, 74, 76  
 Navsari—83  
 Okhamandal—32, 83, 137  
 Opium—142-144  
 Pagar, the island of—139  
 Palanpur—66, 74, 76, 82, 86  
 Panipat—3  
 Panch Kalmi Rules—84, 85  
 Paramountcy—16-18, 29  
 Partaprao—6, 148-151  
 Pelly, Lewis—27  
 Petlad—32  
 Phayre, Colonel—6, 24, 25, 27  
 Pilajirao—2, 6, 148, 150, 151, 156  
 Police Force—127, 128  
 Port Rights—13, 131-137  
 Post and Telegraphs—13, 60-62,  
     169  
 Prachi Prabhas Patan—103-105  
 Prantij—32  
 Predergast, Sir Henry—88  
 Princes' Chamber—164-166  
 Radhanpur—66, 98  
 Railways—13, 30-34, 169  
 Rewakantha—47, 50-53, 64, 65,  
     68, 74, 76, 78, 82, 84, 86, 99,  
     144  
 Reynolds, E. S.—141  
 Salisbery, Lord—103  
 Salt Rights—13, 137-141  
 Sayajirao II—4, 21, 22, 23, 24,  
     54, 78  
 Sayajirao III—1, 6, 13, 125, 131,  
     137, 147, 155, 158, 159, 166,  
     177  
 Security Bond—57, 62, 66  
 Septennial 23  
 Sitaram—21  
 Sovereignty—169, 171, 172  
 Subsidiary troops—12, 114-121  
 Surval, village of—97, 98  
 Tarapur—32  
 Temple Richard—86, 87  
 Tribute—63-83  
 Tupper, Sir Charles—173  
 Veniram—24  
 Victoria, Queen—11, 15  
 Viramgam—32  
 Wadi Solher—94, 95  
 Watson, General—87  
 Walker, Major—12, 19-22, 67,  
     69, 70, 73, 76, 107  
 Warden, Major—87, 102  
 Wallace, Major—12, 53, 99  
 Wantas—50-53  
 Windham C. J.—165  
 Wodehouse, Sir Phillip—86  
 Yeshwantrao—2  
 Zortalbi—102, 103

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